

RESOLUTION NO. 2023-17

RESOLUTION OF THE BOARD OF DIRECTORS OF THE PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT RESCINDING STAGE TWO MANDATORY RESTRICTIONS ON WATER USE AND REVERTING TO STAGE ONE MANDATORY RESTRICTIONS ON WATER USE

WHEREAS, on February 17, 2016, the Board of Directors ("Board") of the Phelan Pinon Hills Community Services District ("District") adopted Ordinance No. 2016-01 which, among other things, established several water conservation measures in a continuing effort to achieve compliance with various regulations of the State Water Resources Control Board and the provisions of the District's Water Shortage Contingency Plan that was implemented as part of the District's revised 2010 Urban Water Management Plan.

WHEREAS, on June 16, 2021, the Board adopted Resolution No. 2021-13 which established the District's updated 2020 Urban Water Management Plan ("UWMP") and Water Shortage and Water Shortage Contingency Plan ("WSCP").

WHEREAS, on July 8, 2021, Governor Newsom issued Executive Order N-10-21 which called on all Californians to voluntarily reduce water use by fifteen percent (15%) to prepare for potential continued dry conditions during Water Year 2021-22.

WHEREAS, on July 21, 2021, the Board adopted Ordinance No. 2021-02 which established the District's new water conservation measures and water supply shortage restrictions and regulations in light of various water supply developments occurring subsequent to the Board's adoption of Ordinance No. 2016-01, including but not limited to the District's updated UWMP and WSCP.

WHEREAS, on July 21, 2021, the Board adopted Resolution No. 2021-16 which operated to implement the mandatory level of water use reduction as mandated in Stage 1 of the conservation measures set forth in Ordinance No. 2021-02.

WHEREAS, on October 19, 2021, Governor Newsom issued a Proclamation of a State of Emergency declaring a statewide State of Emergency to exist due to ongoing drought conditions and directed local water suppliers to execute their urban Water Shortage Contingency Plans and agricultural Drought Plans at a level appropriate to local conditions that takes into account the possibility of a third consecutive dry year.

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order N-7-22 which ordered the State Water Resources Control Board ("SWRCB") to consider adopting emergency regulations that include a requirement for urban water suppliers with a water shortage contingency plan to, at a minimum, implement shortage response actions up to twenty percent (20%).

WHEREAS, on May 13, 2022, SWRCB issued draft emergency water conservation regulations which require water suppliers to implement conservation

actions under Stage 2 of their water shortage contingency plan in an effort to boost water savings in June 2022.

WHEREAS, on May 24, 2022, SWRCB adopted Section 996 of Title 23 of the California Code of Regulations as an emergency regulation, which requires all urban water suppliers that submitted a water shortage contingency plan to the DWR to implement by June 10, 2022, at minimum, the demand reduction actions identified in the supplier's water shortage contingency plan.

WHEREAS, on June 15, 2022, the Board adopted Resolution No. 2022-19 which imposed Stage 2 of the conservation measures set forth in Ordinance No. 2021-02 in response to the findings set forth therein and in the District's staff report presented in connection therewith.

WHEREAS, on March 24, 2023, the Governor of the State of California issued Executive Order N-5-23 lifting both the voluntary 15% water conservation target and the requirement for local water agencies to implement level 2 of drought contingency plans.

WHEREAS, in addition to the statutory and regulatory provisions referenced above, the District is authorized by Government Code Section 61100(a) and Water Code Sections 375-377, 1009, and 71610.5 to restrict the use of water during any emergency caused by overdraft, drought, or other threatened or existing water shortage, and to prohibit the waste of District water or the use of District water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the District and may prohibit use of such water during such periods for specific uses which the District may from time to time find to be nonessential. The District has the authority to impose monetary fines and penalties and take other applicable actions pursuant to Government Code Sections 61100(a), 61045(b), 61060(a)-(b), and 25120 et seq., and Water Code Sections 350-358, 375-377, 1009, and 71276-71281.

WHEREAS, in accordance with the District's updated UWMP and WSCP, and the above statutory provisions, a Notice of Public Hearing was published in the Daily Press, a newspaper of general circulation, at least ten (10) days before consideration of this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Phelan Pinon Hills Community Services District as follows:

1. Incorporation of Recitals. All of the foregoing Recitals are true and correct and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

2. Public Hearing. The Board conducted a public hearing on June 28, 2023, at 5:00 p.m., or as soon thereafter as practicable, at the Phelan Community Center located at 4128 Warbler Road, Unit B, Phelan, California, as part of the Regular Meeting of the Board.

3. Stage 1. The Board hereby declares that a water supply shortage condition continues to exist and thereby re-imposes Stage 1 of Ordinance No. 2021-02. The District shall notify the public of this determination by public proclamations. For example, and not by way of limitation, such proclamations may be made by way of press releases, brochures, mail-outs, and/or water bills. Upon such a proclamation, due and proper notice shall be deemed to have been given to each and every person supplied water within the District. The Board is adopting such Stage 1 restrictions pursuant to its legal authority as set forth herein.

4. Mandatory Restrictions and Prohibitions. Effective immediately upon adoption of this Resolution, the Stage 2 restrictions implemented pursuant to Resolution No. 2022-19 are hereby rescinded and the mandatory Stage 1 restrictions set forth in Section 4 of Ordinance No. 2021-02 (which are incorporated herein by this reference) shall be re-imposed to promote water conservation, 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.

5. Enforcement. The enforcement of this Resolution and the procedures for written notice, imposition of fines and/or penalties, termination of service, and appeal rights shall be the same such procedures as set forth in Ordinance No. 2021-02. The regulatory purposes of imposing the requirements and financial penalties, as set forth in this Resolution, are to conserve water, deter waste and unreasonable use of water, encourage efficiency, and to help cover the costs incident to the investigation, inspection, and administration of the enforcement of this Resolution.

6. Environmental Review. The Board finds that adopting and enforcing mandatory restrictions on water use in order to comply with SWRCB requirements is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15268 and Public Resources Code Section 21080(b)(1) as a ministerial action. The Regulations mandate that each urban water supplier implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation. Therefore, an action to implement a particular phase of a water shortage contingency plan is not a discretionary action and as such it is statutorily exempt from CEQA.

7. Severability. If any section, subsection, clause or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

8. Effective Date. This Resolution supersedes Resolution No. 2022-19 adopted by the Board on June 15, 2022, and shall become effective immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 28th day of June 2023, by the following vote:

Ayes: Kujawa, Philips, Roberts, Snyder

Noes:

Abstain:

Absent: Hays



President, Board of Directors

ATTEST:



Secretary, Board of Directors