

**RESOLUTION NO. 2013-11**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT, RESTATING RESOLUTIONS 2008-4, 2008-13 AND 2009-09 DECLARING AN WATER SHORTAGE CONDITION, PROVIDING FOR INTERIM WATER ALLOCATION PROCEDURES, A PENALTY CHARGE FOR OVERUSE OF WATER ALLOCATIONS , PROVIDING FOR TRANSFER OF WATER FROM AGRICULTURAL CONTRACT TO AGRICULTURAL SMALL PARCEL CUSTOMERS, FOR OVERUSE OF WATER ALLOCATIONS, AND TEMPORARILY SUSPENDING ALL PROVISIONS OF THE WATER USER’S HANDBOOK IN CONFLICT WITH THIS RESOLUTION**

**RECITALS:**

A. On February 6, 2008, the Board of Directors passed resolution 2008-04 “*A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT, DECLARING AN EXTREME WATER SHORTAGE CONDITION, PROVIDING FOR INTERIM WATER ALLOCATION PROCEDURES AND PENALTY FOR OVERUSE OF WATER ALLOCATIONS, AND TEMPORARILY SUSPENDING ALL PROVISIONS OF THE WATER USER’S HANDBOOK IN CONFLICT WITH THIS RESOLUTION*” and amended resolution 2008-04 with Resolution 2008-13 on April 20, 2008 “*A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT, AMENDING RESOLUTION NO. 2008-04* and amended resolution 2008-13 with Resolution 2009-09 on March 25, 2009 “*A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT, AMENDING RESOLUTION NO. 2008-13.*

B. On February 25, 2013, the Bureau of Reclamation issued its initial 2013 Central Valley Project (CVP) water supply outlook for CVP contractors. The outlook and resulting forecast provide for significant reductions in available water supplies for Agricultural and Municipal and Industrial (M&I) CVP contractors. The reductions are the result of: 1) lack of adequate rainfall, and, 2) pumping restriction in the Delta as a result of the biological opinion issued by the United States Fish and Wildlife. These will significantly impact the District’s CVP allocations. Based upon the foregoing facts, there exists an water shortage condition.

C. In such extreme water shortage years, it is critical that the District implement policies that provide for conservation and discourage overuse of water by both Agricultural and M&I contract customers and Agricultural and M&I small parcel customers.

D. The District has implemented and wishes to continue interim allocation procedures pertaining to water overuse including a regulatory overuse charge. Such overuse will result in a reduction of water available to other users who are entitled to their allocation and will require that the District locate and purchase water on the open market to compensate for the overused water. This charge is not imposed upon a parcel as an incident of property ownership but is a regulatory charge on water users who choose to overuse water allocations.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT AS FOLLOWS:**

**Resolutions 2008-4, 2008-13 and 2009-09 are hereby amended and restated in the paragraphs that follow.**

**1. Declaration of Water Shortage:** The Board hereby declares an CVP water shortage condition in the District for water year 2013-2014 and adopts the following interim policies regarding water overuse to address the emergency.

**2. Interim Overuse Policies Applicable to Agricultural and M&I San Felipe Customers (Contract and Small Parcel):** If an Agricultural or M&I customer overuses their applicable water allocation, the District shall discontinue water service by closing the customer's valve. The customer will be billed their applicable water rate and power rate for usage along with minimum regulatory conservation charge up to \$450/Acre-Foot). This charge is intended to recover the District's costs for locating and purchasing water in the open market to back-fill the District's supplies so that other District customers' allocations will not be impacted.

**3. Changing Account Service Type:** Customers will not be allowed to change account service type between contract and small parcel or between contract Ag and contract M & I. However, the District has the discretion to authorize changing of account service type when such is deemed justified under the circumstances.

**4. Transfer of Water from Agricultural Contract Customers to Agricultural Small Parcel Customers:** Agricultural Contract customers will be allowed to transfer 2012-2013 rescheduled water and 2013-2014 water to small parcel customers. Transfers will only be allowed to agricultural small parcel customers with permanent crops (e.g. trees and vines) who meet either of the following criteria: 1) parcels are designated “high boron”, 2) customer has no access to well water.

**5. Miscellaneous:** Any and all provisions of the Water User’s Handbook that are in conflict with the provisions of this Resolution are hereby suspended during the term of this interim Resolution. This Resolution shall be reviewed periodically but not later than the first meeting in March, 2014, to determine whether a water shortage condition and emergency exists and whether the policies set forth herein should continue in effect. In the event a court of law determines that any provision of this Resolution is invalid, such determination shall not invalidate the remaining provisions of this Resolution.

The foregoing Resolution was passed and adopted at a meeting of the Board of Directors of the San Benito County Water District held on April 19, 2013 by the following vote:

AYES: DIRECTORS: Tobias, Flores & Torquato  
NOES: DIRECTORS: None  
ABSENT: DIRECTORS: Bettencourt and Tonascia

/s/ John Tobias  
John Tobias  
President

ATTEST:

/s/ Sara Singleton  
Sara Singleton  
Assistant Manager