

RESOLUTION NO. 10-43

RESOLUTION OF THE VISTA IRRIGATION DISTRICT  
AMENDING EXISTING RULES AND REGULATIONS PERTAINING TO THE  
INTERIM AGRICULTURAL WATER PROGRAM

WHEREAS, the Board of Directors of the Vista Irrigation District (VID) adopted rules and regulations pertaining to Metropolitan Water District of Southern California's (MWD) Interim Agricultural Water Program (IAWP) on November 19, 2008; and

WHEREAS, Section 1.13, Non-Compliance, Penalty Water Rate and Fees, of the rules and regulations pertaining to the IAWP includes a reference to the fee section contained in VID's Rules and Regulations and lists specific Water Conservation Fee amounts; and

WHEREAS, each time the Board of Directors approves new fee amounts, the Board of Directors is required to amend IAWP rules and regulations to incorporate the new fee amounts; and

WHEREAS, amending the IAWP rules and regulations to remove the Water Conservation Fee amounts and replace them with language referencing the fee amounts contained in VID's Rules and Regulations eliminates the need to amend the IAWP rules and regulations to incorporate revisions to fee amounts; and

WHEREAS, upon the effective date of this resolution, the rules and regulations pertaining to the IAWP contained in Resolution No. 08-52 shall be repealed and replaced with provisions set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Vista Irrigation District, as follows:

INTERIM AGRICULTURAL WATER PROGRAM

1.1 Definitions

- A. *Owner*: Owner of Record per the County of San Diego.
- B. *Interim Agricultural Water Program*: The Interim Agricultural Water Program (IAWP) adopted by the Board of Directors of the Metropolitan Water District of Southern California on May 10, 1994, renewed on September 10, 1996, extended on March 12, 2002, and amended on October 14, 2008, wherein an agricultural water discount for treated water and untreated water shall be applied to water purchased by those water agencies participating in the IAWP.
- C. *Interim Agricultural Water Program Certification and Acknowledgment Form*: A Vista Irrigation District form on which the owner of qualifying agricultural lands certifies that his/her land qualifies for the IAWP and acknowledges that by participating in this program, his/her property is subject to reduction in delivery up to the full interruption based upon water supply conditions as determined by VID.
- D. *MWD*: Metropolitan Water District of Southern California.
- E. *CWA*: San Diego County Water Authority.

- F. *Reduction in Delivery:* Participants in this program may be first in line to have a percentage of their normal water supply "interrupted" due to a declared drought. Under the program, the following reductions may be enforced:

Regional Shortage Level	Regional Shortage Percentage	2008	2009	2010	2011	2012
	Voluntary	Up To 30%		Up To 24%	Up To 18%	Up To 11%
1	5%	30%	30%	24%	18%	11%
2	10%	30%	30%	25%	20%	15%
3	15%	40%	40%	34%	28%	21%
4	20%	50%	50%	43%	35%	28%
5	25%	75%	75%	63%	50%	38%
6	30%	100%	100%	75%	60%	45%
7	35%	100%	100%	84%	68%	51%
8	40%	100%	100%	85%	70%	55%
9	45%	100%	100%	86%	73%	59%
10	50%	100%	100%	88%	75%	63%

These reductions apply to all agricultural water supplied by the Vista Irrigation District. In any case, the Vista Irrigation District reserves the right to enforce any reduction in water deliveries to the Vista Irrigation District's agricultural customers which it receives from either MWD or CWA.

- G. *Request to Terminate Participation Form:* A Vista Irrigation District form on which the owner requests termination of participation in the IAWP and acknowledges that by terminating participation in this program, his/her water commodity rate will increase to the domestic water rate and that he/she will not be able to re-enroll in the program.

H. *VID:* Vista Irrigation District

- 1.2 Qualifications to Participate in this Program: Agricultural customers of the Vista Irrigation District who utilized IAWP water in fiscal year 2007 and qualify under the rules may participate in this program. The rules require that the program be limited to water used for: "The growing or raising, in conformity with recognized practices of husbandry, for the purposes of commerce, trade, or industry, of agricultural, horticultural, or floricultural products, and produced: (1) for human consumption or for the market; (2) for the feeding of fowl or livestock produced for human consumption or for the market; or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market, such products to be grown are raised on a parcel of land having an area of not less than one acre utilized exclusively therefore."
- 1.3 Duration of Program: The IAWP is being phased-out over four calendar years resulting in the termination of the program on December 31, 2012. Once an agricultural owner has entered into this program, the owner's land will be subject to the conditions of this program for the duration of the program unless the agricultural owner's lands no longer qualify for the program or the owner terminates participation in the program, subject to the conditions specified below. It is the intent of the Vista Irrigation District Board of Directors that the benefits and obligations of the

program shall run with the land and not with the owner, and it is the responsibility of the owner to disclose that the land is subject to this program.

- 1.4 Request to Terminate Participation in Program: Owners can terminate participation (opt-out) in the program each January, until the program ends on December 31, 2012. Request to terminate participation received in a given year will be effective beginning January 1 of the following calendar year. IAWP reductions will continue to be enforced through the end of the calendar year in which the request to terminate participation is received. On the effective date of the request to terminate participation, the owner will pay the full domestic water rate and not be subject to reduction in deliveries associated with IAWP. Once an owner terminates participation in the program, he/she may not re-enroll.
- 1.5 Amount of Discount to be Passed on to District Agricultural Customers: A discounted commodity rate will be applied to each individual agricultural account in an amount equal to the interim agricultural water rate discount received from MWD. VID will use a melded rate, based on the interim agricultural water rates for treated and untreated water, as the discount.
- 1.6 Parcels served by multiple meters: If a parcel qualifying under this program is served by more than one meter, then all meters shall be considered included in this program and will be subject to a Reduction in Delivery.
- 1.7 Agricultural Meters Serving One or More Homes: When a meter supplies water to a parcel qualifying under this program which contains one or more residences, the first 26 units of water delivered per month shall be considered domestic water and shall be billed at the District's domestic water rate. The Interim Agricultural Discount shall only apply to that water used after the first 26 units of water per month.
- 1.8 Execution of Program Forms: The Certification and Acknowledgment Form and Request to Terminate Participation Form must be signed by the owner of the property and shall be recorded against the property. In cases where the owner has given the proper power of attorney to an agent, the agent may execute the Certification and Acknowledgment Form or Request to Terminate Participation Form by providing a copy of the power of attorney to the District.
- 1.9 Verification of Program Qualifications: The District may require proof that the agricultural products raised by the owner were produced for human consumption or for the market by furnishing the District with copies of bills of sale or other documentation acceptable to the District.
- 1.10 Liability for Interim Agricultural Discount Penalties and Charges as Required by VID: Should VID determine that water purchased under this program was done so under the basis of incorrect information supplied by the applicant or used for purposes other than agricultural purposes as defined in Section 1.2, VID may assess penalties and charges. The District shall assess the then current owner these rates, penalties and charges even though the then current owner may not have been the owner executing the Certification and Acknowledgment Form. The District shall immediately disqualify that parcel from participating in the program.

- 1.11 Interruption in Delivery of Water: The owner shall certify and acknowledge by executing the Certification and Acknowledgment Form or Request to Terminate Participation Form that he/she further acknowledges that his/her parcel is subject to reductions in delivery up to full interruption based on water supply conditions as determined by VID. For owners who have terminated participation in the program after January 1 of a given year, the condition that their parcels are subject to reductions in delivery up to full interruption remain in place until January 1 of the following calendar year .
- 1.12 VID Matching Agricultural Rate: The VID Board authorizes a matching reduction in water rates for local water to any agricultural customer participating in MWD's IAWP.
- 1.13 Non-Compliance, Penalty Water Rate and Fees
- A. Any person, who uses, causes to be used, or permits the use of water in violation of this resolution is guilty of an offense punishable as provided herein.
  - B. Each day that a violation of this resolution occurs is a separate offense.
  - C. Water usage in excess of required reductions, as set forth in Section 1.1 F, will be billed at the IAWP rate plus a penalty water rate.
  - D. Water Conservation Fees, as set forth in Section 4.4.17 of the District's Rules and Regulations, may be levied for each violation of a provision of this resolution as follows:
    - 1. A first violation of any provision of this resolution shall result in a letter of warning.
    - 2. A second violation of any provision of this resolution within one year shall result in the assessment of a Water Conservation Fee.
    - 3. A third violation of this resolution within one year shall result in the assessment of an additional Water Conservation Fee.
    - 4. Four or more violations of any provision of this resolution shall result in the assessment of an additional Water Conservation Fee.
  - E. Violation of a provision of this resolution is subject to enforcement through installation of a flow-restricting device in the meter. The cost of installing and removing a flow-restricting device will be paid for by the person, who uses, causes to be used, or permits the use of water in violation of this resolution.
  - F. All fees and costs associated with installing and removing a flow-restricting device and disconnecting and re-connecting water service will be added to the account of the person, who uses, causes to be used, or permits the use of water in violation of this resolution. Fees and costs will appear on and be payable with the first billing statement for the period the violation occurred and be subject to the same remedies that are imposed by the District for failure to pay other charges.


- G. All remedies provided for herein shall be cumulative and not exclusive. In addition, remedies may be invoked, combined, or accelerated based on the timing and severity of the violation.

1.14 Appeals

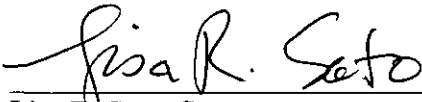
- A. Any person complaining about fees and/or other remedies applied in accordance with Section 1.13 shall have that complaint be first taken up with the General Manager before any action will be taken by the District's Board of Directors.
- B. The General Manager's determination may be appealed in writing within ten days of the mailing of a notice of determination. Any determination not timely appealed shall be final.
- C. The person appealing the General Manager's determination shall submit a written request to the Board Secretary to have his or her appeal considered as an item for discussion and action at an upcoming Board meeting. The written request shall include: 1) a description of the issues, 2) evidence supporting the claim, and 3) a request for resolution of the dispute.
- D. The District shall at least ten days before the date of the hearing mail an appropriate notice of the regular or special meeting at which the appeal will be heard. The Board may, in its discretion, affirm, reverse or modify the determination.

PASSED AND ADOPTED by the Board of Directors of the Vista Irrigation District this 20<sup>th</sup> day of October 2010, by the following roll call vote:

AYES: Directors Miller, Vásquez, Dorey, MacKenzie, and Williams  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
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Howard S. Williams, President

ATTEST:

  
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Lisa R. Soto, Secretary

Board of Directors

VISTA IRRIGATION DISTRICT