

MOJAVE WATER AGENCY  
ORDINANCE NO. 3

AN ORDINANCE OF THE MOJAVE WATER AGENCY  
ESTABLISHING A PUMPING ASSESSMENT

WHEREAS, the Board of Directors of the Mojave Water Agency hereby finds:

1. The Mojave Water Agency is organized and operated pursuant to the Mojave Water Agency Law, California Water Code Appendix 9; and
2. Section 39, of the Mojave Water Agency Law requires all persons extracting water within the jurisdiction of the Mojave Water Agency to file a "Notice of Intent to Extract or Divert Water", and the Agency intends to implement such requirement by this Ordinance; and
3. Section 16, of the Mojave Water Agency Law provides for the annual levy of an assessment against pumping within the Agency for the purpose of obtaining funds, in part, for the construction or acquisition of necessary works, including the costs of investigations; and
4. Investigations are necessary to develop a Water Supply Plan which will include necessary works for the efficient and effective management of the natural and supplemental water resources available to the Agency; and
5. Supplemental water resources available to the Agency will generally benefit water producers for municipal and industrial uses due to the increased demand for water delivered for those uses; although agricultural producers will receive benefits from the delivery of supplemental water through the increased efficiencies derived through comprehensive management of the available and supplemental water resources, agricultural producers will not be as dependent during the term of this ordinance term upon supplemental water deliveries as to municipal and industrial users.
6. Because the benefits for the delivery of supplemental water are different between municipal/industrial uses and agricultural uses, the Agency proposes to levy different assessments on these classes of producers.
7. The Board of Directors intends to levy such assessment for a maximum of three (3) years for payment of these investigations, and at the end of that period evaluate the need for the continuation of this program.

NOW THEREFORE, be it Ordained by the Board of Directors of the Mojave Water Agency as follows:

Section 1. DEFINITIONS. The definitions contained in Water Code Appendix 97, Section 2 shall have the same meaning as contained in this Ordinance, with the following additions:

- (a) Municipal water uses means those uses which are primarily provided with water for human consumption by governmental or quasi-governmental agencies through a water distribution system.
- (b) Domestic water uses means the same as Municipal water uses.
- (c) Industrial water uses means those uses which are provided for commercial or business purposes and are primarily for the production and processing of goods for market, or used for commercial recreational purposes.
- (d) Agricultural water uses means those uses which are primarily for the cultivation and irrigation of soil, dairying, the production of agricultural commodities, viticulture or horticulture and the raising of livestock, fish or poultry.

Section 2. NOTICE OF INTENT TO EXTRACT OR DIVERT WATER.  
Effective July 1, 1991, all persons presently extracting water from a well or diverting from a surface water within the jurisdiction of the Mojave Water Agency (Agency) shall file an updated "Notice of the Intent to Extract or Divert Water" (Notice) with the Agency.

Section 2.1. Such Notice shall be on a form provided by the

Agency and shall include the following information (a) the owner of the land and the location of the well site, including the Assessors Parcel Number (APN) and the State Well Number, (b) a description of the type of construction of the well, (c) the proposed uses of the water including the lands or service area where the water is used, (d) the date of construction, (e) the amount of water pumped from the well during the previous calendar year, and (f) any other information required by the District in relation to the extraction or diversion of water.

Section 2.2. After the effective date of this Ordinance, any person intending to extract or divert water within the jurisdiction of the Mojave Water Agency shall file a Notice similar to that required in Section 2.1, at least 15 days before the commencement of any construction or diversion. In addition to the information required in Section 2.1, the proposed construction of the well or diversion facility shall be included in the Notice.

Section 2.3. All Notices required by this Ordinance shall be signed and verified under penalty of perjury that the information contained therein is true and correct, by both the person owning the land or interest therein and the person who will construct the well or diversion facility.

Section 3. PUMPING ASSESSMENT. Effective from the date of adoption until December 31, 1991, and each calendar year thereafter, the following assessment shall be levied on all persons pumping more than ten (10) acre feet per year from wells located within the jurisdiction of the Mojave Water Agency in the following

amounts:

- a. For all water produced for municipal, domestic and industrial purposes . . . . . \$2.00 per acre foot.
- b. For all water produced for agricultural purposes . . . . . \$1.00 per acre foot.

Section 3.1. The Agency shall provide a statement of the amount of assessment due by February 1, 1992, and payment shall be due on March 1, 1992.

Section 3.2. Any assessment not paid by March 1, 1992, shall be considered delinquent, and the Agency after due notice and hearing shall place a lien upon the property of the owner of the well, wherever located within the jurisdiction of the Agency.

Section 4. FUND ACCOUNTING. Funds obtained from the pumping assessment shall be maintained within a separate account and the amounts in the account shall be reported to the Board of Directors as part of the annual audit of the Agency.

Section 4.1. Said funds collected by the Agency shall be used exclusively to finance technical investigations for the purpose of determining the necessary facilities to be required to manage the water resources within the jurisdiction of the Agency. Such financing shall be limited to payment to consultants retained by the Agency and the costs of overhead and administration of such consulting contracts, and no fund derived from the pumping assessment shall be used for general administration, operation, or the purchase of supplemental water by the Agency.

Section 5. THREE YEAR LIMITATION. The Board of Directors of

the Mojave Water Agency shall evaluate the need for continuation of the pumping assessment within three (3) years from October 1, 1991, and make a determination if the collection of this assessment is required.

Section 6. APPEALS TO THE BOARD. Any decision of the General Manager regarding the provisions of this Ordinance may be appealed to the Board of Directors of the Agency according to the following procedures:

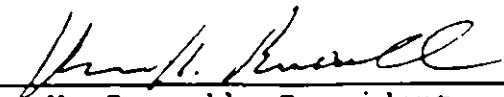
- 6.1 STAFF DECISIONS: All staff decisions which are adverse to the proponent, may be reviewed by the General Manager upon written request of the proponent, within five (5) working days of the staff decision.
- 6.2 APPLICATION: Within ten (10) working days following an adverse decision by the General Manager, the proponent may apply in writing for review of the decision by the Board of Directors.
- 6.3 REVIEW BY THE BOARD: The General Manager shall prepare a summary of the decision affecting the proponent, and place the matter on the next available agenda of the Board of Directors for consideration.
- 6.4 ACTION OF THE BOARD: The Board of Directors may sustain the decision of the General Manager, modify the decision of the General Manager, or rescind the decision of the General Manager and issue a new decision. All actions of the Board of Directors reviewing decisions of the General Manager are final.

Section 7. SEVERABILITY. If any portion of this Ordinance is found to be unconstitutional or invalid, the Agency hereby declares that it would have enacted the remainder of this Ordinance regardless of the absence of any such invalid part. The provisions of this Ordinance shall prevail and control throughout the Agency in the event of any inconsistency between this Ordinance and any other rule, regulation, ordinance, or code of the Agency.

Section 8. EFFECTIVE DATE OF THIS ORDINANCE. This Ordinance shall be in full force and effect upon the date of adoption, and shall be published in full in a newspaper of general circulation within ten (10) days from the date of adoption.

Passed and adopted this 11th day of June, 1991, by the following vote:

- AYES: RITTMAN, CHRISTOPHER, HAHS, LOWRY, IRWIN, GAINES, RUSSELL
- NOES: NONE
- ABSTAIN: NONE

  
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John H. Russell, President

ATTEST:

  
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Thomas H. Irwin, Secretary