

ORDINANCE NO. 1

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE LOS CARNEROS WATER DISTRICT ESTABLISHING A WATER SCHEDULING AND DELIVERY MANAGER, DEFINING ROLES AND RESPONSIBILITIES OF WATER SCHEDULING AND DELIVERY MANAGER, DEFINING ROLES AND RESPONSIBILITIES OF THE LANDOWNERS WITHIN THE DISTRICT, AND ESTABLISHING PENALTIES FOR EXCEEDING MAXIMUM ALLOCATED WATER

WHEREAS, the Los Carneros Water District, hereinafter referred to as “Water District”, is a California Water District, organized pursuant to Section 34000 et seq. of the California Water Code; and

WHEREAS, Section 34000, *et seq.*, allows the Board of Directors of the Water District to establish Ordinances, Rules and Regulations that ensure the orderly provision of utility service; and

WHEREAS, the Water District passed a benefit assessment on July 2, 2014, to secure funding from Landowners to construct a recycled water pipeline project, and the benefit assessment included only 106 of the 263 parcels within the LAFCO recognized Water District Boundary; and

WHEREAS, the Water District, through its Consulting Civil Engineers, had designed and does intend to install a recycled water pipeline to serve parcels located within the District, and has contracted with the Napa Sanitation District to bid, administer, and manage the construction of the pipeline; and

WHEREAS, the Water District instructed its Consulting Civil Engineers to design the pipeline project using certain design parameters, and those parameters resulted in a cost effective and affordable project; and

WHEREAS, the Water District’s design parameters necessitate that the Landowners within the Water District Boundaries work cooperatively, and abide by those design parameters to assure that all 107 parcels connected to the project are able to receive their full design-based seasonal allocation of recycled water during the course of the water year; and

WHEREAS, to assure the orderly provision of water service, the Water District intends to establish the position of Water Scheduling and Delivery Manager, hereinafter referred to as “Manager”, whose job will be to monitor for each parcel the seasonal amount of water allocated, the monthly allocation, the weekly schedule, the daily allocation, and the instantaneous flow rates for all recycled water delivered; and,

WHEREAS, the Manager will control all water and its delivery, will resolve any conflicts regarding water delivery between Landowners, and will impose administrative penalties on Landowners who do not abide by the rules and regulations adopted by Resolution of the Board of Directors of the Water District and implemented by the administrative guidelines promulgated and written by the Manager; and

The Board of Directors of the Los Carneros Water District ordains as follows:

SECTION 1. A new Chapter 1 (Definition of Terms) is hereby added to read in full as

follows:

Chapter 1

Definition of Terms

1.01 Water District.

The term Water District means the Los Carneros Water District.

1.02 Sanitation District.

The term Sanitation District means the Napa Sanitation District or NSD

1.03 Water Scheduling and Delivery Manager.

The term Water Scheduling and Delivery Manager (Manager) means the General Manager of the Sanitation District. The General Manager may designate one of the Sanitation District staff members to function as the Manager.

1.04 Design Assumptions Based Upon Assessor's Parcel Acreage

All design analyses are based upon acreage as shown on the Napa County Assessors Maps as shown on the Assessment Engineer's Report. No accommodations are made for actual planted areas, easements, roads, or any other amenity or improvement from which a Landowner could construe a different land acreage.

1.05 Design Allocation

The pipeline was designed with a maximum seasonal water allocation. The summer season design allocation for each parcel is 0.33 acre feet of water per acre. That is the fundamental basis for the hydraulic design of the recycled water pipeline.

1.06 Monthly Design Seasonal Allocation

The pipeline was designed with a maximum monthly seasonal water allocation as a key parameter. The monthly design allocation for each parcel is limited to no more than 30 percent (30%) of the seasonal allocation (monthly allocation = seasonal allocation x 0.30). That is the fundamental basis for the hydraulic design of the recycled water pipeline.

1.07 Design Rate of Flow

The pipeline was designed with a maximum instantaneous flow rate per acre. The maximum instantaneous rate of flow to each parcel is set at no more than 1.57 gallons per minute per acre (on a 7 day per week, 12 hour per day basis.). That is the fundamental basis for the hydraulic design of the recycled water pipeline. No landowner for any parcel shall exceed this flow rate without prior written authorization from the Manager. Manager will monitor the rate of flow for each parcel, consistent with the Tables created by Carollo Engineers on file with the Secretary of the Board.

1.08 Summer Season

The Summer Season is defined as the period between May 1st and October 31st.

1.09 Winter Season

The Winter Season is defined as the period between November 1st and April 30th.

SECTION 2. A new Chapter 2 (Manager) is hereby added to read in full as follows:

Chapter 2

Manager

2.01 The position of Manager is hereby created.

The position of Manager is hereby created. The primary role of the Manager is to maximize the delivery capability of the recycled water pipeline, so that all parcels within the Assessment District receive as much of their seasonal entitlement as possible.

2.02 The Person who Functions as the Manager

The Water District has entered into an agreement with the Sanitation District to oversee the construction of the recycled water pipeline. Upon completion of construction, the pipeline will become the property of the Sanitation District, who will own, operate, maintain and manage the pipeline. The Sanitation District General Manager, or his designee, will function as the Manager. Should the Sanitation District no longer agree to function as the Manager, the Board of Directors shall appoint a Manager.

2.03 Compensation

The compensation paid by the Water District to the Sanitation District for the Sanitation District Staff to function as the Manager shall be zero dollars per year. Should the Water District appoint a Manager different from the Sanitation District, the Board will enter into a Professional Services Agreement (PSA) with the person or entity, and the compensation for services will be addressed in that PSA.

2.04 Responsibilities

The Manager will be responsible for scheduling deliveries of recycled water through the pipeline in a manner that maximizes deliveries equally to all parcels to meet the needs of the Landowners. The Consulting Civil Engineers conducted hydraulic analyses to determine and assure that the pipeline has sufficient capacity to deliver the water at the summer season rate of 0.33 acre feet of water per acre. Scheduling by the Manager, and adherence to the schedule by the Landowners, is needed to insure that all Landowners' needs are met. The Manager shall develop rules and regulations to be approved by the Board based upon water usage assumptions developed by Carollo Engineers in order to maximize water availability to all properties.

2.05 Authority to Schedule and Control Deliveries

The Manager shall have authority to schedule and control all deliveries of water. The Manager will monitor a schedule of deliveries specifying days of the week, hours of the day, and rate of flow for each parcel.

2.06 Penalties

Should a Landowner not adhere to the delivery schedule and/or allotted times for the Landowner to take water, or should a Landowner exceed the instantaneous rate of take as established by the Water

District, the Manager shall have the authority to immediately impose administrative penalties upon the Landowner.

2.07 Authority to Turn Off Water

Should a Landowner fail to abide by the instructions of the Manager on delivery schedules, exceed amounts of water allocated, or rate of flow restrictions, and the Penalties imposed by the Manager have been ignored, the Manager shall have the authority to turn off the water supply to the Landowner for a period of time determined by the Manager consistent with the Table of Penalties.

2.08 Irrigation Manager Criteria

The following is from the Technical Memorandum prepared by the Consulting Civil Engineers for the hydraulic analysis.

It specifies the assumptions used for verification of sufficiency of the pipeline design, and that it can cost effectively meet the flow demands of the Water District.

Table 1: Irrigation Manager Criteria (1)

<i>Description</i>	<i>Criteria</i>
<i>Parcel Annual Allocation</i>	<i>0.33 AFY/acre x Total Acres</i>
<i>Winter Storage Fill</i>	<i>Use of winter water will be encouraged, but the current model is not based on Winter water use</i>
<i>Summer Storage Fill</i>	<i>Off-stream only, 12 hours per day (2)</i>
<i>Vineyard Irrigation hours (3)</i>	<i>(Summer) 6am – 6pm</i>
<i>Landscape Irrigation hours</i>	<i>(Summer) 6pm – 6am</i>
<i>Summer storage filling</i>	<i>6pm – 6am</i>
<i>Neuenschwander Constraint</i>	<i>Parcels near the intersection of Neuenschwander and Duhig Rd. will have to irrigate at night when pressures are sufficient to provide net positive suction head for a booster pump</i>

Note:

(1) This table outlines the system operational criteria assuming that Water District can work with NSD to increase the summer water allocation to meet anticipated demands.

(2) No more than 30% of the Annual Allocation will be delivered in any given month.

(3) Daytime vineyard irrigation demands are calculated as follows:

- Each vine is irrigated once per week and the irrigation demand for each parcel is spread over 7 days with two irrigation sets per day (morning and afternoon)*
- Irrigation occurs at a rate of 1.57 gpm/acre.*

2.09 Water Shortages or Overages

In the event that the Sanitation District notifies the Water District that there will be water shortages or water overages for the water year, the Manager shall utilize the Sanitation District’s best estimates in generating the water use schedules for the Landowners. Any shortage or any overage shall be allocated proportionally by acreage among all parcels.

SECTION 3. A new Chapter 3 (Obligations and Responsibilities of Landowners) is hereby

added to read in full as follows:

Chapter 3

Obligations and Responsibilities of Landowners

3.01 Obligations and Responsibilities of Landowners to follow Water District Ordinances, Rules and Regulations

All Landowners within the Water District shall have the obligation and responsibility to comply with all Water District Ordinances, Rules and Regulations, and directions of the Manager.

3.02 Obligations and Responsibilities of Landowners to adhere to the Administrative Guidelines of Manager

The Landowners within the Water District shall have the obligation to adhere to the Administrative Guidelines promulgated by the Manager. The Board of Directors shall provide general direction to the Manager for the Administrative Guidelines. The Manager may request that the Board ratify the Administrative Guidelines, but is not obligated to do so. The Manager shall timely notify all Landowners of any added, changed, or deleted Administrative Guideline.

3.03 Obligations and Responsibilities of Landowner to comply with directions of Manager

The Landowners within the Water District shall have the obligation and responsibility to comply with the directions of the Manager. Such directions may come from the Manager via a number of communication paths, including phone, e-mail, text, or mail. Landowner has the obligation to update contact information with the Manager within 24 hours of a change.

3.04 Landowner On-Site Recycled Water Supervisor

Each Landowner shall designate an on-site recycled water supervisor. The NSD may require additional designations and shall require that person to receive specialized training on inspection and reporting requirements. Additionally, each Landowner shall provide to NSD two methods to contact both the supervisor and the Landowner, so that all notifications are received. One method shall be an e-mail address, and the other can be either a text number or a cell phone number. NSD shall communicate with the on-site supervisor; however, if no response is given by the on-site supervisor, the Landowner shall be contacted.

SECTION 4. A new Chapter 4 (Penalties) is hereby added to read in full as follows:

Chapter 4

Penalties

4.01 Penalties: Failure to Follow Water District Ordinances, Rules, Regulations, and Administrative Guidelines.

The Water District shall have the right to impose Penalties on any Landowner who does not comply with the Water District Ordinances, Rules and Regulations, or comply with Administrative Guidelines promulgated by the Water District's Manager.

Penalties are intended to modify the behavior of a Landowner who is not complying with or following the rules and regulations and to bring that Landowner into compliance with the rules and regulations. Penalties for subsequent infractions shall be progressive and shall become punitive.

The Water District has the right and the responsibility to protect itself, and consequently the other Landowners who are participants in the recycled water project, from a Landowner who does not comply with Water District rules and regulations. Additional penalties may include truncating, limiting, or stopping water deliveries to the Landowner until the Landowner has assured the District's Manager and the Water District Board of Directors that they will comply. Penalties may include ordering the Landowner who does not comply with the rules and regulations to install improvements at or near the water meter to assure compliance.

4.02 Penalties: Water Shut Off.

The Water District shall have the right to stop water delivery to any Landowner who does not comply with the Ordinances, Rules, Regulations or Administrative Guidelines of the Water District.

Water Service will not be reinstated until the Landowner has demonstrated, to the satisfaction of the Board of Directors in its sole discretion, that compliance will be obtained in the future.

4.03 Administrative Guidelines of Manager

The administration of the day-to-day duties of water management is hereby delegated to the Manager. The Manager shall brief the Board on any Administrative Guidelines prior to their implementation, and may ask the Board to ratify such Administrative Guidelines via a Resolution of the Board.

The Administrative Guidelines are the professional judgment of the Manager, and are necessary to assure the maximization of delivery of recycled water through the recycled water pipeline.

4.04 Penalties: First Three Offenses.

The following table lists the penalties for a Landowner who fails to comply with this Ordinance, Rules, Regulations, or Administrative Guidelines of the Water District as to rate of flow limitation, timing of take, amount of take, monthly allocation, seasonal allocation, or any other actions that interfere with the intended design operation of the project:

Table of Penalties

Offense	Monetary Penalty: to be paid before water service will be restored	Water Delivery Withhold Penalty: (see note below)	Fate of Withheld Water: Withheld water may be used to compensate for "over-take" by offender (see note below.)
First	\$0.00	7 days, minimum	If Landowner took too much water, water shall be withheld until the schedule catches up. If Landowner took at too high a rate or outside of scheduled time, and did not exceed volumetric limitation, withheld water may be taken during

			the next cycle, provided capacity is available.
Second	\$1,000.00	14 days, minimum	If Landowner took too much water, water shall be withheld until the schedule catches up. If Landowner took at too high a rate or outside of scheduled time, and did not exceed volumetric limitation, withheld water may be taken during the next cycle, provided capacity is available
Third	\$2,000.00	28 days, minimum	Withheld water is forfeited, and reallocated to other Landowners.

Note: the length of withhold shall be sufficient to make up of any water taken exceeding what was scheduled for the Landowner during the period of infraction. The Landowner will be ordered by the Manager to take no water during the withhold period. If the Landowner violates the order and takes water during the withhold period, the Manager shall physically shut off the water. If the water is physically shut off, a \$200.00 water turn on charge will be added to the bill, to cover the costs of the Manager.

4.05 Authority of Vice President to Issue Bills for Penalties

When the Board Vice President is advised by the Manager that a Landowner has violated the rules and regulations, the Vice President shall cause to be prepared and shall issue a bill to the Landowner consistent with the Table of Penalties. All monetary penalties are to be paid in full to the Treasurer-Tax Collector prior to water service being reinstated. The Vice President will be acting administratively. The Vice President may designate another Board Member to act during his or her absence.

4.06 Penalty for Repeated Offenses

In the event that a Landowner fails for the fourth time to comply with the Manager's instructions as to rate of flow limitation, timing of take, amount of take, monthly allocation, or yearly allocation, that Landowner shall be required by the Board to install a series of devices which will preclude any further offenses.

4.07 Appeals

Any Landowner who is penalized by the Manager shall have the right to appeal the penalty to the Board within ten (10) calendar days of receiving notice of penalty by filing an appeal with the Vice President. The appeal must be addressed to District Counsel, 1195 Third Street, Suite 301, Napa, CA 94559. The appeal shall be heard by the Board in open session at the next Regular Meeting occurring at least thirty (30) days after the appeal is filed. The Manager will present the facts to the Board during the Hearing. However, the penalty shall be paid before the Landowner's water service will be restored and before the appeal will be heard. The Landowner may pay the penalty under protest. The Board may uphold the Manager's decision or modify the Manager's decision, or overturn the Manager's

decision in whole or in part. If the Board modifies the Manager's decision in whole or in part, the Water District will refund the overturned portion of the penalty to the Landowner, via the Claims List process, which will be handled at the next meeting of the Board.

SECTION 5. A new Chapter (Allocation of water to each Landowner) is hereby added to read in full as follows:

Chapter 5

Allocation of Water to Each Landowner

5.01 The Seasonal Allocation for Each Parcel

The seasonal allocation for each parcel will be determined by the Water District. The Summer season allocation will be the sum of the parcel's share of the Summer Water "Will Serve" allocation from NSD, plus the parcel's share of a Summer Water Interruptible allocation from NSD. The Winter season allocation will be the parcel's share of the Winter Water "Will Serve" allocation from NSD.

5.02 The Allocation of Summer "Will Serve" Water for each Parcel

The current allocation of Summer "Will Serve" water for each parcel is defined as that parcel's share of the Summer Water "Will Serve" allocation from NSD, currently set at 450 Acre Feet. The per acre share is determined as follows:

Each Landowner's per acre Summer Water "Will Serve" allocation = $450 \text{ AF} / 4,127 \text{ acres}$
This water shall be known as "Table A Water."

5.03 The Allocation of Summer "Interruptible" Water for Each Parcel

The allocation of Summer "Interruptible" water for the Water District shall be defined by NSD each year. The amount of interruptible water may vary from zero acre feet to more than 900 acre feet, depending upon supply available at NSD. The allocation of this water to each parcel will be proportionately determined by the Manager, as follows:

Per acre Summer Water "Interruptible" allocation = $\text{amount available from NSD} / 4,127 \text{ acres}$
This water shall be known as "Table B Water"

5.04 The Allocation of Winter "Will Serve" Water for Each Parcel

Allocation of Winter "Will Serve" water for each parcel is defined as that parcel's share of Winter Water, currently set at 800 acre feet. However, only parcels with "off – stream" reservoirs are eligible to take such water. The Manager will work with the eligible parcels to develop delivery schedules and amounts such that the water is equitably distributed. This water shall be known as "Table C Water."

5.05 Limitation on Seasonal Allocation and Rate of Flow for Table A Plus Table B Water, as well as Table C Water

Each landowner shall comply with the design parameters for water received both during the Summer and during the Winter.

Summer water is any water used from Table A allocations plus any water used from Table B allocations. In no case can the sum of allocation from Table A plus Table B exceed 0.33 AF per acre

without the written authorization from the Manager. In no case can the rate of flow exceed 1.57 gallons per minute per acre for a 12 hour per day, 7 day per week take, without written authorization from the Manager.

Landowners eligible for Table C water shall work with the Manager on scheduling of takes, such that all eligible parcels have equal delivery schedule, rate of flow and seasonal consumption.

5.06 Landowner Seasonal Schedule of Delivery Submission

Each Landowner shall provide to the Manager a seasonal schedule of delivery 30 days prior to start of that season's water deliveries. This delivery schedule will be on a monthly format. The seasonal schedule of delivery will list the anticipated monthly deliveries, noting the limitation of no more than 30% of the annual allocation of water will be delivered in any one month. The Landowner shall also include the desired delivery frequency and delivery rate, i.e., 7 days per week versus fewer days per week and a constant sustained rate of 1.57 gpm per acre versus a higher rate for fewer delivery periods.

During the actual irrigation season, each landowner shall provide to the Manager a monthly delivery schedule for each week of the month of anticipated water consumption during that month. This monthly delivery schedule will be on a weekly format, and will be delivered to the Manager 15 days prior to the start of the month. The weekly schedule of delivery will list the weekly deliveries, focusing on gallon per minute rates of delivery for each 6 hour block of delivery time, noting the sustained rate limitation of 1.57 gallons per minute per acre.

For those Landowners submitting schedules by the due dates, the Manager will work to fill the requests, and if not possible, will proportion water deliveries on an acreage basis.

If a weekly water delivery schedule is not provided timely to the Manager by a Landowner, the Manager has no obligation to schedule water to that parcel for that period.

SECTION 6. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors of the Los Carneros Water District hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 7. This Ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 8. The Board of Directors hereby determine that there is no possibility the proposed ordinance may have a significant effect on the environment and therefore CEQA is not

applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

SECTION 9. A summary of this Ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Board of Directors of the Los Carneros Water District, held on the ____ day of _____, 2016, and passed at a regular meeting of the Board of Directors of the Los Carneros Water District, held on the ____ day of _____, 2016, by the following vote:

AYES:	DIRECTORS	_____

NOES:	DIRECTORS	_____
ABSTAIN:	DIRECTORS	_____
ABSENT:	DIRECTORS	_____

John W. Stewart, President
LOS CARNEROS WATER DISTRICT

APPROVED AS TO FORM	
By: <u>Janice D. Killion</u> (by e-signature) District Counsel	ATTEST: _____ Secretary of the District Board
Date: December 28, 2015	By: _____

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED AT THE
STONEBRIDGE SCHOOL, 1680 LOS CARNEROS AVENUE, NAPA, CALIFORNIA, ON
_____.

_____,
_____, Secretary of the District Board