



# Staff Report

**TO:** Board of Directors

**FROM:** Chip Close, Water Operations Manager

**DATE:** July 28, 2021

**SUBJECT:** Drought Enforcement Procedures, Fines, and Penalties

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## **OPERATIONS**

### **RECOMMENDATION:**

Adopt Resolution No. 2021-28 - Establishing Enforcement Procedures, Fines and Penalties for Violations of the District's Mandatory Water Use Restrictions Established in Resolution No. 2021-21.

### **BACKGROUND:**

Severely dry hydrologic conditions in combination with insufficient snowpack runoff and below average carryover storage led the District to make a declaration of drought via Resolution 2021-11 at the April 28, 2021 Board of Director's meeting. The resolution contained a request for voluntary water use reductions of 10%. Although appropriate at the time, hydrologic conditions continued to deteriorate, and the level conservation achieved by the District's customer base was not sufficient to meet the District's carryover storage targets for 2021-2022. Consequently, the District was forced to escalate drought response to mandatory levels.

On July 1, 2021 the District adopted Resolution 2021-21 Escalating Drought Response and Enhancing Conservation Measures. The resolution included mandatory water use restriction of 20% for treated water customers and additional water use restrictions for raw water irrigation. Additionally, the resolution included a provision for the development of enforcement procedures to impose fines and penalties for violations of water use restrictions. In response, legal counsel and staff developed Resolution No. 2021-28, which provides the details for enforcement, fines, and penalties for violations of water use restriction established in Resolution No. 2021-21.

**BUDGETARY IMPACT:**

The implementation of fines is to encourage compliance with water use restrictions and is not intended to boost the 2021 budget. The amount of revenue generated via fines is unknown, as it is dependent on customer compliance with water use regulations.

## Attachments:

- Resolution No. 2021-28
- Resolution No. 2021-21
- Resolution No. 2021-11



**RESOLUTION NO. 2021-28**  
OF THE BOARD OF DIRECTORS OF THE NEVADA IRRIGATION DISTRICT

**ESTABLISHING ENFORCEMENT PROCEDURES, FINES, AND PENALTIES FOR  
VIOLATIONS OF THE DISTRICT'S MANDATORY WATER USE RESTRICTIONS  
ESTABLISHED IN RESOLUTION NO. 2021-21**

**WHEREAS**, on April 28, 2021, the Board of Directors of Nevada Irrigation District (District) adopted Resolution No. 2021-11 Declaration of Drought, which imposed increased conservation measures and requested a 10% reduction in water use from all District customers; and

**WHEREAS**, on May 10, 2021, California Governor Newsom issued a Proclamation of a State of Emergency due to drought, observing "a historic and unanticipated" depletion of the expected snowpack runoff and declaring a drought emergency in forty-one counties, including Nevada, Placer, and Yuba Counties; and

**WHEREAS**, consistent with Governor Newsom's May 10, 2021, Proclamation, the District's watersheds experienced a historic and unanticipated depletion of the expected snowpack runoff, resulting in the need to escalate drought response and enhance conservation measures; and

**WHEREAS**, in addition, the District's adoption of Resolution No. 2021-11 requesting voluntary 10% water conservation as compared to 2013 usage did not result in District customers achieving water conservation at a level necessary to address emergency drought conditions and to meet the District's carryover storage targets in the event emergency drought conditions persist into the 2021/2022 water year; and

**WHEREAS**, on July 1, 2021, following publication and public hearing, the District adopted Resolution No. 2021-21 Escalating Drought Response and Enhancing Conservation Measures (Resolution 2021-21); and

**WHEREAS**, Resolution 2021-21 requires, among other terms, wise water use practices, a reduction in treated water use by 20% compared to 2020 usage, and implementation of irrigation efficiency practices for raw water customers; and

**WHEREAS**, Resolution 2021-21 also directed the District's General Manager to prepare by July 28, 2021, an enforcement procedure to impose civil fines and penalties for any violations of Resolution 2021-21; and

**WHEREAS**, Resolution 2021-21 also requires District customers to comply with District's policies and rules and regulations concerning water use; and

**WHEREAS**, pursuant to Water Code §§ 375 et seq., the District is empowered to implement conservation measures, to conduct enforcement proceedings, and to impose fines and penalties for violations; and

**WHEREAS**, the District finds that sanctions including fines and penalties for excessive or wasteful water use are reasonable and are necessary to deter customers from taking excess water from District supplies or engaging in wasteful or prohibited water use practices; and

**WHEREAS**, the Board of Directors of Nevada Irrigation District finds and determines, as set forth in detail below, that this Resolution is necessary to address emergency drought conditions prevailing in the District's service area and to strengthen enforcement of the District's Resolution 2021-21, the District's policies, and its rules and regulations.

**NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED** by the Board of Directors of Nevada Irrigation District that the above recitals are true and correct and are incorporated by this reference as findings:

**BE IT FURTHER RESOLVED** that the District adopts the following process and procedures to provide due process and to enforce Resolution 2021-21 and District's policies and rules and regulations:

1. Applicability.
  - a. This Resolution provides for administrative citations, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the District.
  - b. The administrative citation process set forth in this Resolution applies to all violations of:
    - i. Resolution 2021-21;
    - ii. A new resolution that supersedes Resolution 2021-21 and that requires revised and/or more stringent drought response and enhancing conservation measures; and/or

- iii. The District's policies as currently written or hereafter duly adopted or revised by the Board of Directors; and/or
    - iv. The District's rules and regulations as currently written or hereafter duly adopted or revised by the Board of Directors.
  - c. The use of this Resolution shall be at the sole discretion of the District.
- 2. Definitions. For purposes of this Resolution:
  - a. "Enforcement Officer" shall mean any District employee or agent of the District with the authority to enforce any provision of this Resolution; and
  - b. "Hearing Officer" shall mean the District's General Manager or the person or persons appointed by the District's General Manager that presides over an administrative hearing provided for in this Resolution.
- 3. Administrative Citation.
  - a. Whenever an Enforcement Officer determines that a violation has occurred, the Enforcement Officer shall have the authority to issue an administrative citation to any person responsible for the violation.
  - b. Each administrative citation shall contain the following information:
    - i. The date of the violation(s);
    - ii. The address or a specific description of the location where the violation(s) occurred;
    - iii. The section(s), as applicable, of Resolution 2021-21, subsequent resolutions adopted by the Board of Directors that implement water conservation measures and/or drought responses, policies, and rules and regulations violated and a description of the violation(s);
    - iv. The amount of the fine for the violation(s);
    - v. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
    - vi. An order prohibiting the continuation or repeated occurrence of the violation(s) described in the administrative citation;
    - vii. A description of the administrative citation review process, including the time within which the administrative citation may be contested by submitting a request for a hearing form;
    - viii. The name and signature of the citing Enforcement Officer; and

- ix. A statement that a failure to contest the administrative citation shall constitute a failure to exhaust administrative remedies and result in the citation becoming a final administrative enforcement order.

4. Administrative Citation Fines.

- a. Except in cases where the violation or violations, in the judgment of the Enforcement Officer, pose an immediate threat to health and safety, the District will utilize the following progressively more stringent enforcement procedure in issuing administrative citations:
  - i. First administrative citation: written warning. Whenever an Enforcement Officer determines that a violation has occurred, the Enforcement Officer may issue a warning of administrative citation to any person responsible for the violation. Service of a written warning shall be a prerequisite to the issuance of further administrative citations with attendant financial penalties. In addition to the information set forth in Section 3.b., and if applicable, the warning shall specify a time and date by which the violation shall be corrected, after which a second administrative citation may be issued if the violation is not fully corrected. The Enforcement Officer shall provide for a reasonable amount of time to correct the violation after considering the circumstances of the case, except that at least 24 hours shall be allowed for from the time and date of the warning. A warning shall not be required before the issuance of a second or any subsequent administrative citation for a continuing or repeated violation.
  - ii. Second administrative citation within any twelve (12) month period: \$250 for each violation cited.
  - iii. Third administrative citation within any twelve (12) month period: \$500 for each violation cited.
  - iv. Fourth administrative citation within any twelve (12) month period: \$1000 for each violation cited.
  - v. Fifth and succeeding administrative citation within any twelve (12) month period: the District may resort to any and all available legal remedies, including without limitation suspending or reducing

deliveries to the property and referring the matter to the Placer County or Nevada County District Attorney's office.

- b. Each day or portion thereof during which a violation is committed, continued, or permitted is a separate and distinct violation for which an administrative citation may be issued. Each violation constitutes a separate offense for which a separate penalty may be imposed. The fine amounts shall be cumulative where multiple citations are issued and the aggregate amount will be set forth in the administrative citation.
  - c. Payment of the fine(s) shall not excuse the failure to correct the violation(s) nor shall it bar further enforcement action by the District.
5. Payment of the Fine(s).
- a. All fine(s) assessed shall be payable to the District unless otherwise directed on the citation. Payment must be made within thirty (30) days from the date of the administrative citation.
  - b. Any fine paid shall be refunded in accordance with Section 7.g.ii. if it is determined, after a hearing or appeal, that the person charged with the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
  - c. Payment of fines under this Resolution shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administrative citation.
  - d. Any person who fails to pay the District any fine imposed pursuant to this Resolution on or before the date that fine is due shall also be liable for the payment of a late payment charge per District Rules and Regulations Section 6.

6. Hearing Request.

- a. Any recipient of an administrative citation in which fines are imposed may contest that there was a violation of this Resolution or that the recipient is the responsible party by completing a request for hearing form and returning it to the District office within thirty (30) days from the date of the administrative citation, together with an advance deposit of the fine(s).

- b. A request for hearing form may be obtained from the District's office, 1036 W. Main Street, Grass Valley CA
- c. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.
- d. If the Enforcement Officer submits an additional written report concerning the administrative citations to the Hearing Officer for consideration at the hearing, then a copy of this report shall also be served on the person requesting the hearing at least five (5) days prior to the date of the hearing.

7. Hearing Procedure.

- a. No hearing to contest an administrative citation before a Hearing Officer shall be held unless the fine(s) has been deposited with the District in advance.
- b. A hearing before the Hearing Officer shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this Resolution.
- c. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.
- d. The failure of any party contesting the administrative citation to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust administrative remedies.
- e. The administrative citation and any additional report submitted by the Enforcement Officer, if compliant with Section 3.b., shall constitute prima facie evidence of a violation of this Resolution.
- f. The Hearing Officer shall be a disinterested employee, agent or consultant of the District. The employment, performance evaluation, compensation and benefits of the Hearing Officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the Hearing Officer.



- g. Decision of the Hearing Officer:
  - i. After considering all the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision.
  - ii. If the Hearing Officer decides to cancel the administrative citation, the District shall promptly refund the amount of the deposited fine.
  - iii. The person receiving the administrative citation shall be served with a copy of the hearing officer's written decision.
  - iv. For purposes of the Resolution, service is accomplished by either personal delivery or deposit in the United States Mail in a sealed envelope sent first class, postage prepaid, addressed to the person to be notified at the mailing address for the person as set forth in the District's files or such other address as provided by the person receiving notice.
  
- h. Appeal of Hearing Officer's Decision to Board of Directors:
  - i. If the Hearing Officer upholds the imposition of the administrative citation, the person aggrieved by the administrative citation may appeal the Hearing Officer's decision to the Board of Directors of the District.
  - ii. A request for appeal to the Board of Directors must be made in writing to the District within ten (10) days of service of the Hearing Officer's decision. If an appeal to the Board of Directors is not timely received, the decision of the Hearing Officer shall be final. Timely appeal to the Board of Directors is a prerequisite to seeking judicial review under Section 8; failure to timely appeal to the Board of Directors constitutes a failure to exhaust administrative remedies.
  - iii. Timely appeal requests will be considered by the Board at its next regularly scheduled board meeting.
  - iv. The failure of any party appealing the Hearing Officer's decision to appear at the appeal shall constitute a denial of the appeal, forfeiture of the fine, and a failure to exhaust administrative remedies.
  - v. After considering the Hearing Officer's decision, evidence, testimony of the appealing party, and any public comments, the Board of Directors will make a decision, by motion and majority vote, to grant or deny the appeal.

8. Right to Judicial Review. Any person aggrieved by the Board of Directors' decision to deny and appeal and uphold the administrative decision of a Hearing Officer may obtain review of the decision by filing a petition for review within the applicable Superior Court in accordance with the timeliness, process and provisions set forth applicable law.
9. Recovery of Administrative Citations Fines and Costs. The District may collect any past due administrative citation fines or late payment charges by any or all available legal means.

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**PASSED AND ADOPTED** by the Board of Directors of the Nevada Irrigation District at a regular meeting held on the 28th day of July 2021, by the following vote:

**AYES:** Directors:

**NOES:** Directors:

**ABSENT:** Directors:

**ABSTAINS:** Directors:

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President of the Board of Directors

**Attest:**

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Secretary to the Board of Directors



**RESOLUTION NO. 2021-21**  
**OF THE BOARD OF DIRECTORS OF THE NEVADA IRRIGATION DISTRICT**

**ESCALATING DROUGHT RESPONSE AND  
ENHANCING CONSERVATION MEASURES**

**WHEREAS**, Nevada Irrigation District (District) provides water for residential, commercial, industrial, agricultural, municipal, environmental, recreation, hydroelectric generation, and fire prevention and suppression purposes, as well as other beneficial uses of water; and

**WHEREAS**, article X, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

**WHEREAS**, regulation of the time of certain water use, manner of certain water use, method of application of water for certain uses, and installation and use of water-saving devices provide an effective and immediately available means of conserving water; and

**WHEREAS**, careful water management that includes active water conservation measures, particularly in times of drought is essential to ensure a reliable minimum supply of water to meet current and future water supply needs; and

**WHEREAS**, the 2019/2020 water year was the start of a multiple dry or critically dry cycle with precipitation at 70% of average, combined with earlier than normal precipitation runoff into the District's water storage facilities that caused the need to increase withdrawals from storage and reduced end of year carryover storage to below-average volumes going into the current 2020/2021 water year; and

**WHEREAS**, despite persistent dry conditions in the 2019/2020 water year, the District's then-existing storage and snowpack measurements and forecasted precipitation and runoff narrowly supported a declaration of water "surplus" made by the District's Board of Directors on March 10, 2021; and

**WHEREAS**, since the District's surplus water declaration on March 10, 2021, water supply conditions have significantly deteriorated such that surplus water conditions no longer exist in the District, including a reduction in water supply of at least 24,000 acre feet due to lack of precipitation, increased water demands due to unusually hot and dry conditions, and forecasted low carryover storage levels far below average; and

**WHEREAS**, on April 21, 2021, Governor Gavin Newsom issued a State of Emergency Proclamation, stating that "much of the West is experiencing severe to exceptional drought and California is in a second consecutive year of dry conditions, resulting in drought or near-drought throughout many portions of the State" and "drought conditions vary across the State and some watersheds...are extremely dry and are facing substantial water supply and ecosystem challenge"; and

**WHEREAS**, on April 28, 2021, the Board of Directors of the District adopted Resolution No. 2021-11 Declaration of Drought, which imposed increased conservation measures, and requested a 10% voluntary reduction in water use from all District customers; and

**WHEREAS**, since the April 28, 2021 Drought Resolution No. 2021-11, water supply conditions have continued to deteriorate, causing forecasted carryover storage levels to continue to drop; and

**WHEREAS**, on May 10, 2021 Governor Newsom issued a second Proclamation of a State of Emergency due to drought, observing "a historic and unanticipated" depletion of the expected snowpack runoff and declaring drought emergency in forty-one counties, including Nevada, Placer and Yuba Counties; and

**WHEREAS**, the District's watersheds have also experienced a historic and unanticipated depletion of the expected snowpack runoff, resulting in the need to escalate drought response and enhance conservation measures; and

**WHEREAS**, the District's adoption of Resolution No. 2021-11 requesting voluntary 10% water conservation as compared to 2013 usage has not resulted in District customers achieving water conservation at a level necessary to address emergency drought

conditions and to meet the District's carryover storage targets in the event emergency drought conditions persist into the 2021/2022 water year; and

**WHEREAS**, as a result of the current emergency drought prevailing within the District's boundaries, and based on the lack of runoff from snowpack in the District's watershed, the District forecasts that its water supplies, without undertaking drought reduction and mitigation efforts, will drop to unacceptably low levels; and

**WHEREAS**, the current 2020/2021 water year is currently classified as critically dry and has resulted in drought conditions throughout the District's service area and watersheds, with precipitation being 49% or worse as compared to normal and actual snowpack runoff being historically low; and

**WHEREAS**, persistent drought conditions have negatively impacted, and continue to impact and threaten, the District's powerhouses that generate hydroelectric power and recreational facilities resulting in a decline in usage and resultant revenues; and

**WHEREAS**, following notice and public hearing, the District adopted its 2020 Update to its Agricultural Water Management Plan on April 14, 2021, which includes a Drought Contingency Plan; and

**WHEREAS**, on May 26, 2021, recognizing the sudden, unexpected emergency drought conditions prevailing within the District, the Board of Directors authorized the purchase of 16,000 acre-feet of water at a cost of \$700,000 from Pacific Gas & Electric Co.; and

**WHEREAS**, the District's enabling legislation (Division 11 of the California Water Code), the District's rules and regulations, and other applicable laws, including California Water Code sections 375 through 378 empower the District to adopt and enforce a water conservation program and to adopt and impose regulations and restrictions on water delivery to conserve water supply after holding a public hearing and making appropriate findings of necessity for the program; and

**WHEREAS**, to ensure continued supply of water for public health and safety and other beneficial uses, including domestic, irrigation, sanitation, environmental and fire prevention and suppression uses during this drought, it is necessary to impose enhanced water conservation measures and water use restrictions on the District's customers and other recipients of District water, including Nevada City and the City of Grass Valley; and

**WHEREAS**, such conservation measures and water use restrictions must be imposed to ensure that the District has sufficient end-of-year reserves of water (carryover) in storage to enhance its ability to continue delivering water to all beneficial uses in the 2021/2022 water year should the current drought conditions continue; and

**WHEREAS**, notice of public hearing on the consideration of this Resolution was published on June 24, 2021 in The Union, Auburn Journal, Lincoln News Messenger and the Appeal-Democrat and a draft of the Resolution was posted onsite at the District and on its website on June 28, 2021; and

**NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED** by the Board of Directors of the Nevada Irrigation District that the above recitals are true and correct and are incorporated by this reference as findings.

**BE IT FURTHER RESOLVED** that under authority of applicable law, including California Water Code sections 375 through 378, Nevada Irrigation District hereby adopts this Resolution in order to achieve water use efficiencies and limitations and conservation to achieve a 20% reduction in total District water use.

**BE IT FURTHER RESOLVED** that the District's carryover storage target to begin preparing for the upcoming 2021/2022 water year shall be at least 105,000 acre feet total District storage at the end of October, 2021.

**BE IT FURTHER RESOLVED**, that Nevada Irrigation District imposes wise water use practices by prohibiting the following, except where necessary to address immediate health and safety needs:

- A. The application of raw or potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas,

private and public walkways, roadways, drains, parking lots, or structures.

- B. The use of a hose that dispenses raw or potable water to wash a motor vehicle except where the hose is fitted with a shut off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
- C. The application of raw or potable water to driveways and sidewalks.
- D. The use of raw or potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.
- E. The application of raw or potable water to outdoor landscapes during and within 48 hours after measurable rainfall.
- F. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.
- G. Irrigating ornamental turf on public street medians with raw or potable water.
- H. Irrigating landscapes outside of newly constructed homes and buildings with raw or potable water in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.

**BE IT FURTHER RESOLVED** that the District's treated water customers shall be subject to the following measures as determined by the District and established in the District's Drought Contingency Plan:

- A. All District treated water customers will be required to reduce water use by 20% as compared to 2020 usage.
- B. Outdoor irrigation shall be limited to the following:
  - a. Watering shall be limited to three days per week;
  - b. Water shall be limited to early morning (before 10 AM) and late evening (after 9 PM); and
  - c. Under no circumstance shall customers irrigate in a manner that creates runoff.
- C. Drought pricing at Drought Contingency Plan, Stage 2 levels, will go into effect immediately, July 1, 2021, and will remain until the drought emergency has been lifted by the Board of Directors. Pricing will be per the District's schedule of fees, equating for most customers to an approximate 25% increase in the volumetric rate.

**BE IT FURTHER RESOLVED** that the District's raw water customers shall be subject to the following measures as determined by the District and established in the District's Drought Contingency Plan:

- A. All District raw water customers are strongly encouraged to implement irrigation efficiency practices.
- B. Outdoor irrigation of landscape shall be limited to the following:
  - a. Watering shall be limited to three days per week;
  - b. Water shall be limited to early morning (before 10 AM) and late evening (after 9 PM); and
  - c. Under no circumstance shall customers irrigate in a manner that creates runoff.
- C. No new or increased raw water sales will be permitted until the drought emergency has been lifted by the Board of Directors.
- D. No Fall water sales until the drought emergency has been lifted by the Board of Directors per Rules & Regulations 5.01.06
- E. Winter water sales will be limited to existing customers at existing purchase volumes.
- F. Customers who request a reduction, or who voluntarily forego water delivery during the 2021 irrigation season, will maintain their priority of service once the drought emergency has been lifted by the Board of Directors.
- G. Drought pricing at Drought Contingency Plan, Stage 2 levels, will go into effect immediately, July 1, 2021, and will remain in effect until the drought emergency has been lifted by the Board of Directors. Increases for summer water will be prorated from July 1, 2021 through the end of the irrigation season on October 14, 2021. Pricing will be per the District's schedule of fees, equating for most customers to an approximate 20% increase in the volumetric rate.

**BE IT FURTHER RESOLVED** except as otherwise modified by this Resolution, District customers and other water users are required to follow the District's Rules and Regulations and all applicable Federal or State laws.

**BE IT FURTHER RESOLVED** that any violation of this Resolution shall entitle the District to all available legal remedies, including those set forth in the District's enabling legislation, its rules and regulations, and as set forth in Water Code section 377. The



District's General Manager is directed to:

- A. Maintain a program for residents to report waste, unreasonable use, or theft of water throughout the District's boundaries; and
- B. Prepare by July 28, 2021, an enforcement procedure to impose civil fines and penalties for any violations of this Resolution and to publish the same with this Resolution.

**BE IT FURTHER RESOLVED** that in order to conserve supplies, including carryover storage, required for various beneficial uses of water, and to preserve the health and safety of the customers of the District, there is hereby declared a condition of drought necessitating the implementation of measures within the District's Drought Contingency Plan. The General Manager is authorized to identify additional operational actions and request additional conservation measures or water use limitations as determined necessary to meet the needs of public health and safety, including the need to adjust to meet or exceed the District's carryover storage target. Additional conservation measures, as imposed, shall be specifically described and communicated to all customers through one or more of the following: newspaper, public posting, and website and reported to the Board of Directors at the next available board meeting.

**BE IT FURTHER RESOLVED** that District staff under the direction of the General Manager are authorized and directed to implement water conservation messaging as appropriate and necessary to inform customers of emergency drought conditions, the need to immediately implement the terms of this Resolution, and to communicate other water conservation messaging.

**BE IT FURTHER RESOLVED** that this Resolution shall be published in compliance with section 376 of the California Water Code.

**BE IT FURTHER RESOLVED** this Resolution shall become effective immediately upon adoption by the Board of Directors.

**PASSED AND ADOPTED** by the Board of Directors of Nevada Irrigation District at a meeting duly called and held within the District on the 1st day of July, 2021, by the following roll call vote:

**AYES:** Directors: Heck, Hull, Johansen, Peters, Bierwagen  
**NOES:** Directors: None  
**ABSENT:** Directors: None  
**ABSTAINS:** Directors: None

  
\_\_\_\_\_  
President of the Board of Directors

**Attest:**

  
\_\_\_\_\_  
Secretary to the Board of Directors



**RESOLUTION NO. 2021-11**  
OF THE BOARD OF DIRECTORS OF THE NEVADA IRRIGATION DISTRICT

**DECLARING A DROUGHT WITHIN THE DISTRICT'S SERVICE BOUNDARY,  
AND ADOPTING STAGE I DROUGHT CONTINGENCY PLAN PROCEDURES**

**WHEREAS**, Nevada Irrigation District (NID) provides water for residential, commercial, industrial, agricultural, municipal, environmental, fire protection and prevention purposes as well as other beneficial uses of water; and

**WHEREAS**, the current water year has resulted in drought conditions throughout the region, with precipitation being 54% or worse as compared to normal; and

**WHEREAS**, in the event of a shortage of water, the District is authorized, under Division 11 of the California Water Code, the District's rules and regulations, and other applicable laws, including and section 375 of the California Water code, to adopt such regulations and restrictions on water delivery to conserve the water supply for the protection of public health and safety; and

**WHEREAS**, the 2020 water year was the start of multi-year dry conditions with precipitation at 70% of average, combined with early runoff, created increased withdrawals from storage, reducing end of year carryover storage to below average amounts which continued into 2021, and

**WHEREAS**, on March 10, 2021, the District's Board of Directors declared a water surplus given the District's then-existing water supply conditions, including actual storage conditions, snowpack, and forecasted precipitation and runoff; and

**WHEREAS**, since March 10, 2021, water supply conditions have significantly deteriorated such that surplus water conditions no longer exist in the District, including a reduction in overall water supply of 24, 000 acre feet due to lack of precipitation, increased water demands due to unusually hot and dry conditions, and forecasted carryover storage to drop to levels not seen since 2001, and

**WHEREAS**, on April 21, 2021 Governor Gavin Newsom issued a State of Emergency Proclamation, stating that "much of the West is experiencing severe to exceptional

drought and California is in a second consecutive year of dry conditions, resulting in drought or near-drought throughout many portions of the State” and “drought conditions vary across the State and some watersheds...are extremely dry and are facing substantial water supply and ecosystem challenge”; and

**WHEREAS**, following notice and public hearing, the District adopted its Ag Water Management Plan on April 14, 2021 which includes the Drought Contingency Plan; and

**WHEREAS**, as a result of the current drought prevailing within the District's boundaries, and based on the snowpack in the District's watershed being approximately 72% of the April 1<sup>st</sup> average, the District forecasts that its water supplies, without undertaking drought reduction and mitigation efforts, will drop to low levels; and

**WHEREAS**, persistent drought conditions have negatively impacted, and continue to threaten, the District's recreational facilities, resulting in a decline in usage and resultant revenues needed to operate and maintain its recreational programs and facilities; and

**WHEREAS**, to assure continued supply of water for public health and safety, including domestic, irrigation, sanitation, environmental and fire prevention and suppression uses during this drought, it is necessary to impose restrictions relating to water delivery to the District's customers as specified in the Drought Contingency Plan; and

**WHEREAS**, such conservation measures must be imposed to ensure that NID has sufficient end-of-year reserves of water (carryover) in storage to protect its capacity to continue delivering water to all beneficial uses in the succeeding year should the current drought conditions continue.

**NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED** by the Board of Directors of the Nevada Irrigation District that for reasons set forth herein, a local drought emergency now exists throughout the District's service area, which includes portions of Nevada County, Placer County, and Yuba County.

**BE IT FURTHER RESOLVED** that in order to conserve supplies, including carryover storage, required for various beneficial uses of water, and to preserve the health and safety of the customers of the District, there is hereby declared a condition of drought necessitating the implementation of Stage I of the District's Drought Contingency Plan.

**BE IT FURTHER RESOLVED** that the Interim General Manager is authorized to identify additional operational actions and request additional conservation measures as determined necessary to meet the needs of public health and safety. Additional conservation measures, as imposed, shall be specifically described and communicated to all customers through one or more of the following: newspaper, public posting, and website and reported to the Board of Directors at the next available board meeting.

**BE IT FURTHER RESOLVED** that the target minimum carryover storage to be preserved for the 2022 water year shall be >110,000 acre feet for end of month October storage.

**BE IT FURTHER RESOLVED** that water use for domestic, municipal and industrial purposes by all District customers including wholesale customers shall observe the water use practices established in the Districts Drought Contingency Plan Stage I.

**BE IT FURTHER RESOLVED** that irrigation water customers shall be subject to the following reduction measures as established in Stage I of the District's Drought Contingency Plan. Staff shall utilize the methods below to equitably reduce irrigation water deliveries in order to conserve supply, including maintenance of adequate carryover storage, as necessary for public health and safety:

- (a) All District irrigation water customers are strongly encouraged to implement irrigation efficiency practices.
- (b) New and increased irrigation water sales to in-District customers shall be subject to review and approval by Staff to confirm that the order is limited to the smallest amount of water necessary for the customer's beneficial use.
- (c) Outside District sales shall only be made to existing customers at current quantities and shall be subject to restriction or interruption at any time as needed to prevent harm or shortages to in-District customers and to ensure the District achieves its carryover storage target.
- (d) No new or increased water sales to outside District customers will be permitted.
- (e) Customers who request a reduction, or who voluntarily forego water delivery during the 2021 irrigation season will not lose their priority of service for 2022 allocations.
- (f) Availability of fall and new winter water sales will be at the discretion of the Interim General Manager based on storage carryover targets.

\* \* \* \* \*

**PASSED AND ADOPTED** by the Board of Directors of Nevada Irrigation District at a meeting duly called and held within the District on the 28th day of April 2021 by the following roll call vote:

**AYES:** Directors: Hull, Heck, Johansen, Peters, Bierwagen  
**NOES:** Directors: None  
**ABSENT:** Directors: None  
**ABSTAINS:** Directors: None

  
\_\_\_\_\_  
President of the Board of Directors

**Attest:**

  
\_\_\_\_\_  
Secretary to the Board of Directors