

ORDINANCE NO. 4230

**ORDINANCE AMENDING CHAPTER 7.10 TO THE MENDOCINO COUNTY CODE
ENTITLED "EMERGENCY WATER CONSERVATION"**

The Board of Supervisors of the County of Mendocino ordains as follows:

Section 7.10.030 of the Mendocino County Code is amended to read as follows:

"Chapter 7.10 EMERGENCY WATER CONSERVATION

Section 7.10.010. Purpose

The declared purpose of this Chapter is to adopt the necessary rules and regulations on matters related to the local drought emergency adopted by the Board of Supervisors on March 24, 2009 and continuing to date. Such rules are designed to protect life and property affected by the emergency. Cooperation of all Lake Mendocino water users is necessary to achieve the State Water Resources Control Board's 50 percent water conservation goal for the Mendocino County portion of the Russian River drainage. Immediate action is necessary to avoid depleting Lake Mendocino storage and to, in turn, avoid significant health and safety risks, and catastrophic economic losses to Mendocino County's residents. Based on the findings set forth below, this ordinance is passed as an urgency ordinance for the immediate preservation of the public peace, health, and safety.

Section 7.10.020 Findings.

1. Mendocino County is now in its third consecutive year of drought.
2. Lake Mendocino storage remains at unprecedentedly low levels and water delivery limitations have become worse in this third year of drought, creating emergency conditions in Mendocino County.
3. On March 24, 2009, the Mendocino County Board of Supervisors adopted Resolution Number 09-069 declaring a local emergency in Mendocino County due to drought conditions. The Declaration will continue until such time as the Board of Supervisors declares otherwise.
4. Pursuant to Government Code § 8630 et seq., and Mendocino County Code Chapter 7.04, the Director of Emergency Services and the Board of Supervisors may promulgate orders and regulations necessary to preserve the public order and safety.
5. On April 6, 2009, the State Water Resources Control Board issued Order WR 2009-0027-DWR reducing minimum in stream flow requirements downstream of Lake Mendocino and implementing 25

percent and 50 percent Russian River water conservation goals in Sonoma and Mendocino counties, respectively. The order was effective as of April 1, 2009.

6. In response to State Water Resources Control Board Order WR 2009-0027-DWR, the Mendocino County Russian River Flood Control and Water Conservation Improvement District (District) notified its customers in a letter dated April 15, 2009 that their 2009 water allocations from the District would be reduced by 50 percent.
7. On May 28, 2009, the State Water Resources Control Board issued Order WR 2009-0034-EXEC reaffirming the water conservation objectives set forth in State Water Resources Control Board Order WR 2009-0027-DWR.
8. Despite the enactment of State Water Resources Control Board Order WR 2009-0034-EXEC, Lake Mendocino is projected to reach perilously low storage levels by the fall of 2009.
9. On December 11, 2007, the Redwood Valley County Water District Board of Directors declared a Water Shortage Emergency due to lack of adequate rainfall, and that lack of adequate rainfall has continued through the winter of 2008-2009.
10. On April 15, 2009, the City of Ukiah City Council declared a Local Emergency under the State Emergency Services Act and a Stage I Water Shortage Emergency under Section 3602 of the Ukiah City Code.
11. On April 16, 2009, the Redwood Valley County Water District Board of Directors declared that the December 11, 2007 emergency was still in effect, and that it would be necessary to increase the level of conservation to Tier 4 of Redwood Valley County Water District's Ordinance number 1, with 50 percent mandatory conservation effective May 15, 2009.
12. On May 26, 2009, the Millview County Water District Board of Directors adopted Resolution 09-03 declaring a Water Supply Emergency within the boundaries of the Millview County Water District and advanced the water conservation level to stage two, limiting consumption to residential customers to 5,250 gallons per month and requiring a 25% reduction to all commercial/ industrial users.
13. The drought conditions impacting Lake Mendocino water storage are exacerbated by the 2004 Potter Valley Federal Energy Regulatory Commission Decision restricting water diversions from the Eel River to the Russian River by an average of 35 percent, as well as Water Right Decision 1610, which governs stream flow releases from Lake Mendocino and mandates unnecessarily high stream flow releases that the National Marine Fisheries Service has concluded greatly limit

the quantity and quality of juvenile salmon and steelhead habitat in the Russian River.

14. The Mendocino County recently endured one of its worst fire seasons in history and the continuing drought conditions increase the risk of devastating fires and reduced water supplies for fire suppression.
15. The adverse environmental, economic, and social impacts of the drought pose an imminent threat of disaster and threaten to cause widespread harm to people, businesses, property, communities, wildlife, and recreation in Mendocino County.
16. The Mendocino County Board of Supervisors has requested assistance from the State of California, from all relevant State agencies, including but not limited to, the Office of Emergency Services, the Department of Water Resources, the State Water Resources Control Board, the Department of General Services, the Department of Public Health, and the Department of Food and Agriculture, with such assistance to include, but not be limited to, the provision of technical and financial assistance, surplus equipment, and regulatory relief to assist in mitigating or averting the impacts of the drought emergency by increasing water supply and availability, reducing mandated water releases, facilitating water transfers and emergency intertie connections, and all other necessary and appropriate actions to mitigate or relieve the drought emergency.
17. The Mendocino County Board of Supervisors also requested that a Federal declaration of emergency be declared for Mendocino County and further requests that Federal assistance be made available from all relevant Federal agencies, including, but not limited to the Department of Agriculture, the Department of the Interior and the Federal Drought Action Team.

Section 7.10.030 Conservation Requirement.

(a) The 50 percent mandatory rationing and reporting previously required by this urgency ordinance is hereby suspended. In the event the storage in the Lake Mendocino Reservoir drops to 30,000 acre feet on or before January 31, 2010, then the 50 percent water conservation mandate will be reinstated through a further amendment to this ordinance. During this time period, all Mendocino County users of the Lake Mendocino water supply, which is defined as "water held in storage for eventual release or directly diverted from Lake Mendocino", are requested to voluntarily reduce their water usage by 20 percent as compared to at least one of the following:

(b) The maximum allowable annual diversion amount set forth in a valid Appropriative water right permit or license held by the water user and issued by the State Water Resources Control Board.

(c) The maximum annual water allocation set forth in a valid water supply contract between the water user and the Mendocino County Russian River Flood Control and Water Conservation Improvement District.

(d) The corresponding average water usage for the time period beginning on July 15, 2004 and extending through October 2, 2004, or in instances where no applicable water usage data are available for 2004, the corresponding five-year average water usage for the 80-day time period beginning on July 15 and extending through October 2.

(e) Any alternative measure approved by the Mendocino County Water Agency.

All users shall also be required to comply with all rules and regulations regarding water usage that have been adopted by each agency, city, or district.

Section 7.10.040 Reporting Requirements.

All water agencies, cities, districts, and other persons or entities who are not serviced by an agency, city, or district who divert water subject to this chapter shall, on a monthly basis, provide written documentation to the Mendocino County Water Agency that the above requirement is being met. This does not apply to those individual water customers who are serviced by an agency, city, or district.

Section 7.10.050 Penalty.

The violation of any provisions of any section of this ordinance, including, but not limited to, the reporting requirements set forth in section 7.10.040, shall be treated as a misdemeanor.

Section 7.10.060 Review.

This ordinance shall be reviewed for modification or repealed at the time the Declaration of Emergency has been discontinued by the Board of Supervisors.

Section 7.10.070 Severability.

The provisions of this ordinance are separate and severable. If any provision of this ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this ordinance, or the validity of its application to other persons or circumstances."

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this 10th day of November, 2009, by the

following roll call vote:

AYES: Supervisors Brown, McCowen, Smith, Colfax, and Pinches
NOES: None
ABSENT: None

WHEREUPON, the Chairman declared the Ordinance passed and adopted
And **SO ORDERED**.



Chair, Board of Supervisors

ATTEST: KRISTI FURMAN
Clerk of Said Board

By: 

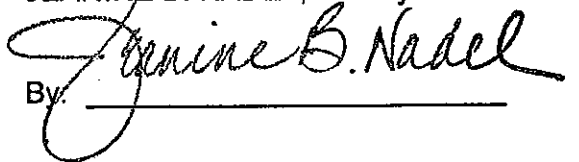
I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

KRISTI FURMAN
Clerk of the Board

By: 

APPROVED AS TO FORM:

JEANINE B. NADEL, County Counsel


By: _____