



MEMORANDUM

TO: CITY COUNCIL

FROM: GEOFF ENGLISH, ACTING CITY MANAGER

**BY: DROUGHT TEAM:
GEOFF ENGLISH, PUBLIC WORKS DIRECTOR
DEBBIE MALICOAT, ADMINISTRATIVE SERVICES DIRECTOR
TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR
DAVID HIRSCH, ASSISTANT CITY ATTORNEY
SHANE TAYLOR, UTILITIES SUPERVISOR
KELLY HEFFERNON, ASSOCIATE PLANNER**

SUBJECT: CONSIDERATION OF A RESOLUTION AMENDING EXHIBIT A OF RESOLUTION 4659 RELATING TO PENALTIES FOR THE DECLARED STAGE 1 WATER SHORTAGE EMERGENCY AND CONSIDERATION OF OPTIONS FOR A POTENTIAL DEVELOPMENT AND ANNEXATION MORATORIUM

DATE: AUGUST 23, 2016

RECOMMENDATION:

It is recommended the City Council;

1. Adopt a Resolution amending Exhibit A of Resolution 4659 which declared a Stage 1 Water Shortage Emergency; and
2. Provide direction regarding options for a development and annexation moratorium

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

Amending the penalties for non-compliance will have minimal impact on the Water Fund. The exact amount will depend on the number of violations, but is estimated at \$5,000 - \$15,000.

BACKGROUND:

The City of Arroyo Grande, along with much of the State of California, is experiencing historic drought conditions. The drought conditions have negatively impacted the City's water supply and have necessitated State-wide water conservation requirements and precipitated the City's need to implement the Water Shortage Contingency Plan and to establish mechanisms for the application of mandatory water use reductions.

On June 10, 2014, the City Council adopted a set of comprehensive strategies to address the City's short-term and long-term water supply needs. The objectives of these

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water supply strategies were to address long-term projected water demand through increased water conservation measures, and to protect the existing water supply by pursuing the future use of recycled water.

On February 24, 2015, the City Council adopted Ordinance No. 669 establishing an emergency Water Shortage Contingency Plan to be put in place in case mandatory water use restrictions became necessary to meet water demand and to address any potential negative impacts on the City's water supply. The Ordinance included two methodologies based upon two stages of water shortage emergency:

Stage 1 Water Shortage Emergency

A Stage 1 Water Shortage Emergency shall be declared when there have been impacts to the City's water supply and/or it has been determined that it is imminent that the water supply will be less than projected demand. All customers will then be required to reduce water usage by a percentage compared to the same billing period the prior year, which will be established by Resolution.

Stage 2 Water Shortage Emergency

A Stage 2 Water Shortage Emergency shall be declared when it has been determined that it is imminent that the water supply is or will be equal to or less than amounts determined necessary to meet basic minimum household health and safety requirements. Therefore, the purpose of Stage 2 requirements is to limit water usage to the minimum amount necessary for public health since the City will likely need to make arrangements for some type of emergency water supply deliveries.

In accordance with the provisions in Arroyo Grande Municipal Code ("AGMC") Section 13.07.030 and after holding a noticed public hearing on May 26, 2015, the City Council adopted Resolution 4659 declaring a Stage 1 Water Shortage Emergency and implementing reductions in water usage based upon historical use. Resolution 4659 also established mandatory penalties for failing to meet water use requirements. Additionally, AGMC Section 13.07.030(B) expressly provides that the mandatory penalty provisions in a Stage 1 Water Shortage Emergency Resolution may be modified by the City Council as it deems necessary and appropriate.

The Stage 1 Water Shortage Emergency as established by Resolution of the City Council has been implemented and is being enforced. The actions by the City Council were enacted due to local water supply concerns and due to State of California mandated water conservation requirements for water purveyors.

On April 1, 2015, due to ongoing drought conditions and the historical low Sierra snowpack measurements, the Governor signed Executive Order B-29-15, enacting statewide mandatory water conservation requirements. The Governor's Executive Order

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included a requirement that the State Water Resources Control Board (SWRCB) impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016. The required reduction was based upon a comparison to the amount of water used in 2013. The final regulations adopted by the SWRCB on May 5, 2015, imposed a 28% water use reduction on the City of Arroyo Grande.

In recognizing persistent yet less severe drought conditions throughout California, on May 18, 2016 the State Water Board, as directed by Governor Brown in Executive Order B-37-16, adopted an emergency water conservation regulation that allowed water purveyors the option to develop conservation standards based upon each agency's specific circumstances. This revised standard required local water agencies, should they choose to participate, to ensure a three-year supply assuming three more dry years like the ones the state experienced from 2012 to 2015. Water purveyors could also choose to continue operation under the May 2015 Water Board conservation requirement. The City of Arroyo Grande remains under the mandatory State water conservation requirement of 28%.

The new executive order requires suppliers to plan water supply for the next three years based on the previous three years of the current drought. The San Luis Obispo County Flood Control District provided the supply information from Lopez and the groundwater supply is detailed in the Groundwater Management agreement. With the supply being so uncertain, trying to predict another 3-year stressed condition lends to uncertain supply and predicted reduction numbers. The current water emergency ordinance has proven to achieve above the required 28% reduction. Based on these factors, the decision was made to stay the course and not self-certify a new reduction amount.

On May 10, 2016, the City Council considered a comprehensive report on the City's water supply and demand and adopted a two-year look-ahead approach to continue closely monitoring the City's water supply status. In addition, the Council:

1. Approved a funding plan for water conservation programming;
2. Directed staff to use existing measures in the City's Mandatory Water Use Restrictions Ordinance to direct mandatory plumbing retrofit for commercial properties; and
3. Directed staff to move forward with efforts to place a measure on the November ballot regarding the potential purchase and use of State Water.

The Council also considered options for the potential implementation of building moratorium options however did not provide direction for the consideration of such measures.

On August 9, 2016, Mayor Hill and Councilmember Brown requested that the matter of a moratorium on development and annexation be placed on the next Council agenda.

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ANALYSIS OF ISSUES:

The City’s long term water supply continues to be of concern as the drought conditions continue and the two primary water sources, Lake Lopez and groundwater, are depleting. The extended drought is resulting in a reduction in deliveries of Lake Lopez water. In anticipation of the Lopez Lake reaching the 10,000 Acre Foot (AF) level, which would trigger a 20 percent delivery reduction, staff has pro-actively reduced the Lake Lopez deliveries.

In addition, the ongoing drought has negatively impacted groundwater levels. Despite having limited impact on increasing reservoir levels, the 2015/16 winter storms did result in some improvements to the groundwater recharge and have allowed for a shift in water use strategy to increase groundwater pumping. Although the recent and modest improvements, groundwater conditions are still precarious and the potential for seawater intrusion into the Northern Cities Management Area groundwater still poses a concern. Groundwater alone should not be relied upon to supply the City’s future water needs.

Staff has previously calculated that based on the current condition of its water sources, the City has adequate water supply to meet the anticipated demand for the next two years. Following is the projected two-year water supply “Look-Ahead”:

Current and Projected Water Supply – Acre Feet per Year (AFY)				
Water Supply Sources	2015 Entitlement	2015 Actual Use	2016 Projected Use	2017 Projected Use
Groundwater – Santa Maria Groundwater Basin	1,323	43	150	220
Groundwater- Pismo Formation*	200	44	120	150
County of San Luis Obispo Lopez Reservoir Project	2,290	2,152	1,830**	1,830**
TOTAL	3,813	2,239	2,100	2,200

* - Estimate of available capacity

** - Based on anticipated 20% reduction to municipal deliveries

Based on staff’s projections, the City’s water supply is sufficient for this and the next calendar year. As a result, temporary supplemental water supplies are not needed at this time. Options for temporary water purchases are being explored for 2018 and will be brought forward for Council consideration should the need arise.

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Current Conservation Measures:

In the meantime, staff recommends that the Council maintain the mandatory water conservation requirements and the previously adopted mandatory water use restrictions. The existing permanent and mandatory conservation restrictions for Arroyo Grande residents include the following:

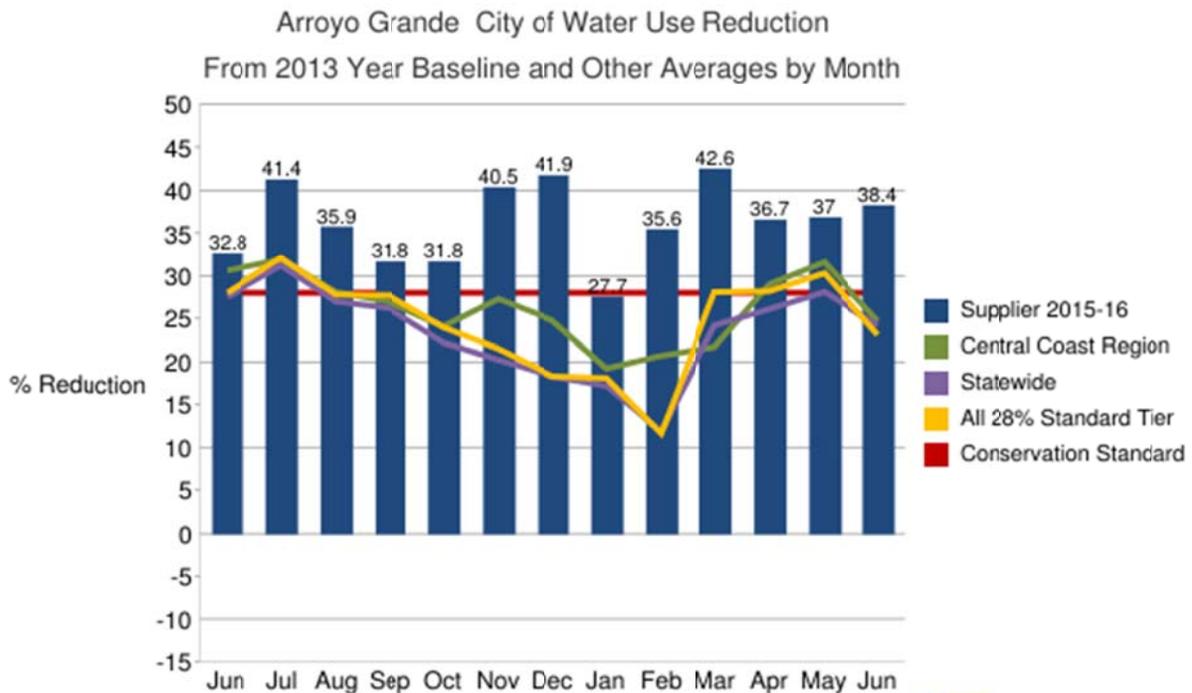
- Use of water which results in excessive gutter runoff is prohibited.
- No water shall be used for cleaning driveways, patios, parking lots, sidewalks, streets or other such use except where necessary to protect the public health and safety.
- Outdoor water use for washing vehicles is allowed only with hand-controlled watering devices.
- Outdoor irrigation is prohibited between the hours of 10:00 a.m. and 4:00 p.m.
- Irrigation of private and public landscaping, turf areas and gardens is permitted at even-numbered addresses on Mondays and Thursdays and at odd-numbered addresses only on Tuesdays and Fridays.
- No irrigation of private and public landscaping, turf areas and gardens is permitted on Wednesdays.
- Irrigation is permitted at all addresses on Saturdays and Sundays.
- Emptying and refilling swimming pools and commercial spas are prohibited except to prevent structural damage and/or to provide for the public health and safety.
- Use of potable water for soil compaction or dust control purposes in construction activities is prohibited.

In addition, the City Council recently amended the permanent and mandatory conservation restrictions to require water to be served in restaurants only upon request and hotels will be required to display signs in rooms instructing visitors to place towels on the floor only if they need to be replaced. City staff is also working on an effort to use existing municipal code regulations to require that all commercial properties be retrofitted with low-flow toilets.

The combination of the mandatory water conservation requirements through a baseline allotment and the mandatory water use restrictions has resulted in a substantial water use reduction by Arroyo Grande water customers. Based on a comparison with water use statistics in 2013, Arroyo Grande water customers have conserved 36.3%, which is one of the highest conservation achievements in the entire County. A graph of the cumulative water use reduction in Arroyo Grande is shown on the following page.

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Cumulative State urban water use reduction since June 2015: 26.3 %



Cumulative Supplier water use reduction since June 2015: 36.6 %

The significant water conservation achievement has in part been the result of a warning and penalty system incorporated into the Stage 1 Water Shortage Emergency Resolution. Under the current resolution, residential customers are required to reduce consumption by the following amounts:

TIER	% SAVING REQUIRED
• Tier 0 (0-10 units)	0%
• Tier 1 (11-18 units)	10%
• Tier 2 (19-36 units)	20%
• Tier 3 (37 units or more)	30%

Arroyo Grande Municipal Code Section 13.07.030(B) provides that the Stage 1 Water Shortage Emergency resolution is to include provisions for the imposition of mandatory penalties. The following mandatory financial penalties are being levied on all water users who fail to reduce consumption in the percentages required:

- First Violation: Written notice of violation
- Second Violation: \$ 50
- Third Violation: \$ 100
- Subsequent \$ 200

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Customers who incur penalties may have them waived by attending a minimum two-hour session of Water Conservation School. The option to have penalties waived by attending Water Conservation School is available only one time for any customer who has incurred penalties. The following chart shows the number of warnings and penalties issued by City staff to date.

	Jul/Aug	Sep/Oct	Nov/Dec	Jan/Feb	Mar/Apr	May/Jun	Total
# Billed Accounts	NA	6,008	5,986	6,054	6,050	6,054	6,030 (avg)
# Baseline Adjustments Processed	145	128	177	206	197	113	966
# Water Appeals Board Reviews	-	-	18	21	12		51
# of City Manager Appeals	-	-	-	-	2	1	3
# Warning Notices Issued	-	1,094	697	201	150	352	2,494
# of \$50 Penalties Issued	-	-	537	169	108	222	1,036
# of \$100 Penalties Issued	-	-	-	130	67	127	324
# of \$200 Penalties Issued	-	-	-	-	33	78	111
Total:	-	1,094	1,234	500	358	779	3,965
# of Water School Attendees			49	62	24	5	140

Penalty Modifications and Responses:

City staff has spent a significant amount of staff resources and time on the following:

- Responding to inquiries from residents to answer customer/property specific questions.
- Conducting site visit with property owners about water conservation options and to conduct water audits.
- Requests for water meter “re-reads.”
- Preparation of historical water use base-lines for each customer.
- Response to requests for modifications to the established water use targets.
- Increase in time necessary for the Utility Billing Adjustment Committee acting as the Water Shortage Appeal Board (WSAB) to review appeals.

Based on concerns expressed by water customers at the May 10, 2016 Council meeting in part due to the amount of staff resources dedicated to the enforcement of the

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conservation measures, modifications to the program are recommended. Specifically, staff recommends that the Council consider resetting the account history regarding warning and penalty events for each customer to zero (providing all customers a fresh start) and reducing the financial penalties in half for the following reasons:

- Water customers have significantly exceeded the water conservation target of 28%.
- The primary purpose of the Stage 1 water emergency is to save water and not generate revenue.
- The imposition of financial penalties has a negative impact on staff time to implement the penalties and to respond to baseline adjustment requests.

To accomplish the “reset”, the following language is proposed to be added to the penalty provision in Exhibit A of Resolution 4659. “For purposes of determining the number of violations (i.e. First Violation, Second Violation, etc.) that result in escalating monetary penalties, violations occurring prior to the effective date of Resolution No. XX, amending the penalty provisions contained herein, shall not be considered.”

While reductions in water usage are still needed in order to meet State mandates and to continue conservation measures due to local water supply uncertainties, it is nonetheless recommended to provide customers with some relief by modifying the penalty provisions in Exhibit A of Resolution 4659 (Attachment 1), due to the success of the conservation program. If customers were not achieving the required reductions, more stringent and higher penalties might be considered. The reverse is also true, as customers are achieving higher conservation than required, slightly easing the penalty provisions is recommended.

Development and Annexation Moratorium:

Another tool to mandate water demand reduction over time would be to implement a moratorium on new development. In 2008, the City declared a “severely restricted water supply condition” after it was determined that the City was using up to 99% of its water entitlements. In 2009, the City adopted Urgency Ordinance Nos. 615, 618 and 622 to implement a moratorium on development applications requiring new water meters due to the serious water supply condition and water quality samples collected during that time that indicated constituents consistent with early signs of sea water intrusion.

In May 2016, general parameters regarding potential implementation of a development moratorium were presented and staff recommended enacting building restrictions under the following conditions unless other supply is identified:

- 1) Declaration of a Stage 2 water supply condition per the City’s existing ordinance (this could occur based upon a threat to a local water supply, water delivery system, State mandated reductions, or a combination):

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- 2) Reduction of Lopez supply of 35%:
- 3) The SMGWB continually falls below the deep well index trigger level of 7.5 feet in conjunction with Lopez supply reduction of 20% or indications of sea water intrusion are detected.

Given these parameters, building restrictions would not be triggered at this time. The third criteria however, does require careful continued monitoring due to the downward seasonal trend of ground water levels, however, levels are higher than at this time last year.

The City is utilizing approximately 60% of supply and long term build out projections for water demand and supply remain balanced based on build-out projections. Any development increasing land use intensity beyond what was envisioned in the City's General Plan Land Use Element would be required to identify additional water supply to offset the additional demand. Additionally, the General Plan includes specific provisions regarding annexations. Under Land Use Objective LU11, "the City shall promote a pattern of land use that protects the integrity of existing land uses, area resources and infrastructure and involves logical jurisdictional boundaries with adjacent communities and the County."

In regard to annexation and the area to the southeast of the City that includes the City's only Sphere of Influence, LU-6.10.1 includes language specific to water resources: "The City of Arroyo Grande may consider the annexation of the unincorporated portion of the Arroyo Linda Crossroads and Williams properties within the proposed Sphere of Influence when all of the following findings are made: a) The proposed annexation will not deplete the water resources required for potential General Plan development within other parts of the City nor divert water resources needed for current and future Agriculture irrigation..." At this time, any application for a General Plan Amendment that increases land use intensity, or any annexation, would require a water supply outside of the City's current Lopez or groundwater entitlements. Currently, the City has an active application for a general plan amendment for the E. Cherry Specific Plan project. There are no current applications for annexations.

Additional conservation measures and new supply:

Additionally, requirements for new development that fall within General Plan Land Use build out calculations include water conservation fixtures, irrigation control and drought tolerant landscape as well as water neutralization fees that are used for meeting continued supply needs. The City is participating on two regional recycled water alternatives to address continued sustainable supply in the long term.

Recent updates to the General Plan Housing and Economic Development Elements prioritize continued modest infill development to meet housing needs and achieve

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economic sustainability. Both priorities would be jeopardized by the implementation of a moratorium as impacts would include a housing shortfall and a further risk to the City's reputation as a reliable place to invest. According to the Government code pertaining to building moratoriums, appropriate findings related to protecting the public health, safety or welfare would be needed. Stringent findings would also have to be made for a moratorium on projects that include multi-family housing. For a moratorium on water connections, findings would be made under Water Code 350 to "conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection."

Building Restriction Options

There are several alternatives regarding the implementation of a moratorium:

- *Continue to monitor water resource conditions and recommend implementation of building restrictions according the established criteria;*
- *Direct staff to develop a prohibition for Council consideration for new General Plan Amendments that increase land use intensity or new annexation proposals;*
- *Direct Staff to develop other building restrictions within the parameters of State Law;*

As previously reported, recent updates to the General Plan Housing and Economic Development Elements prioritize continued modest infill development to meet housing needs and achieve economic sustainability. Both priorities could be jeopardized by the implementation of a moratorium as impacts would include a housing shortfall and a further risk to the City's image as a reliable place to invest and do business. Halting improvements to buildings and properties within the City also diminishes the community's ability to economically develop and re-purpose existing vacant tenant spaces. Although there are many variables depending upon how a moratorium is enacted, there may be real or perceived impacts to economic development opportunities within the City.

ALTERNATIVES:

The following alternatives are presented for consideration:

- Adopt a Resolution amending Exhibit A of Resolution 4659 which declared a Stage 1 Water Shortage Emergency;
- Modify the proposed penalty amounts and adopt a Resolution amending Exhibit A of Resolution 4659;
- Do not adopt the Resolution and direct staff to pursue alternate strategies;
- Continue to monitor water resource conditions and recommend implementation of building restrictions according the established criteria;
- Direct staff to develop a prohibition for Council consideration for new General Plan Amendments that increase land use intensity or new annexation proposals;

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- Direct staff to develop other building restrictions within the parameters of State Law; or
- Provide staff other direction.

ADVANTAGES:

Advantages of adopting the Resolution amending Exhibit A of Resolution 4659 will provide water customers with some relief by modifying the penalty provisions in Exhibit A of Resolution 4659. Additionally staff resources currently used in enforcing the regulations will be reduced, resulting in reprioritization of staff efforts.

DISADVANTAGES:

There is a potential that reduction in the penalties may result in less water conservation and the City would not meet the State requirements. There may also be a negative public perception that those customers that are currently not achieving compliance are being rewarded by having the penalty event reset to zero and reducing the penalty for non-compliance.

ENVIRONMENTAL REVIEW:

Adoption of the Resolution amending Exhibit A of Resolution 4659 is categorically exempt from the California Environmental Quality Act ("CEQA").

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted in accordance with Government Code Section 54954.2.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING EXHIBIT A OF RESOLUTION NO. 4659 RELATING TO PENALTIES FOR THE DECLARED STAGE 1 WATER SHORTAGE EMERGENCY

WHEREAS, on February 24, 2015 the City Council of the City of Arroyo Grande adopted Ordinance 669, adding Chapter 13.07 to the Arroyo Grande Municipal Code relating to Emergency Water Shortage Restrictions and Regulations; and

WHEREAS, in accordance with the provisions in AGMC Section 13.07.030 and after holding a noticed public hearing in accordance with the requirements of Water Code Section 350, et seq., on May 26, 2015 the City Council adopted Resolution 4659 declaring a Stage 1 Water Shortage Emergency and implementing reductions in water usage based upon Historical Use, and mandatory penalties for failing to meet water use requirements as set forth in Exhibit A of that Resolution; and

WHEREAS, on April 1, 2015, the Governor issued an Executive Order directing the imposition of restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban water usage through February 2016, and the implementing regulations adopted by the State Water Board mandated that the City of Arroyo Grande reduce its total potable water production by 28 percent for each month as compared to the amount of water used in the same month in 2013; and

WHEREAS, the City of Arroyo Grande has a limited water supply that consists of two primary sources: Lake Lopez and groundwater. The reservoir level at Lake Lopez was not significantly replenished during the 2015-16 rainy season and continues to decline, and there continue to be significant concerns regarding groundwater pumping and the potential for seawater intrusion; and

WHEREAS, AGMC Section 13.07.030(B) expressly provides that the mandatory penalty provisions in a Stage 1 Water Shortage Emergency resolution may be modified by the City Council as it deems necessary and appropriate; and

WHEREAS, since the declaration of the Stage 1 Water Shortage Emergency the City of Arroyo Grande's water system customers have made significant efforts to reduce water consumption, and the City Council has determined that while reductions in water usage is still needed in order to meet State reduction mandates, it is appropriate to provide its customers with some relief by modifying the penalty provisions in Exhibit A of Resolution 4659.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Arroyo Grande does resolve, declare, determine, and order as follows

RESOLUTION NO.
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SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The City Council hereby adopts the attached amended Exhibit A, which amends Exhibit A of Resolution 4659, and is attached hereto and incorporated herein by reference. Exhibit A sets forth amended mandatory penalties. As provided therein, all residential customers shall continue to reduce water usage by the percentage amounts set forth in Exhibit A. Commercial customers with irrigation meter accounts shall reduce water use as set forth in Exhibit A. Residential and Commercial customers shall be subject to mandatory penalties for failing to meet required water use reductions, as provided in Exhibit A.

SECTION 3. All other water conservation rules, regulations, restrictions, definitions, enforcement procedures, violation provisions and appeal procedures, including but not limited to those contained in Arroyo Grande Municipal Code Section 13.05.030, shall remain in full force and effect.

SECTION 4. The adoption of this Resolution amending Exhibit A to Resolution 4659 is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to 15307 of the State CEQA Guidelines (Actions by Regulatory Agencies for Protection of Natural Resources.)

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid, such determination shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed this Resolution and each and every section, subsection, sentence, clause, or phrase not declared invalid without regard to whether any portion of the Resolution would be subsequently declared invalid or unconstitutional.

SECTION 6. The restrictions and regulations adopted by Resolution 4659, and as amended herein, shall remain in effect for the duration of the Stage 1 Water Shortage Emergency, and until rescinded or modified by the City Council. This Resolution shall be effective immediately upon its adoption.

On motion of Council Member _____, seconded by Council Member _____,
and by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing Resolution was passed and adopted this 23rd day of August 2016.

**RESOLUTION NO.
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JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

GEOFF ENGLISH, ACTING CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY

EXHIBIT "A"

CITY OF ARROYO GRANDE RESOLUTION NO. _____

**RESOLUTION NO. _____ AMENDING EXHIBIT A OF RESOLUTION NO. 4659,
WHICH DECLARED A STAGE 1 WATER SHORTAGE EMERGENCY**

A. ASSIGNMENT OF BASELINE WATER AMOUNT BASED UPON HISTORICAL USE

All residential customers and commercial customers with irrigation meters will be assigned a Baseline Water Amount based upon their Historical Use, as further set forth herein. Except when adjusted in accordance with the provisions contained in Arroyo Grande Municipal Code Section 13.07.070 A or B, the Baseline Water Amount shall be based upon the amount of water used during the same billing period of the previous year prior to the adoption of Resolution 4659.

B. COMMERCIAL CUSTOMERS

All commercial customers with irrigation meter accounts shall reduce water use by 25% from the amount of usage of the assigned Baseline Water Amount. Failure to reduce water use by this required percentage shall result in the imposition of the mandatory financial penalties contained in Subsection D, herein.

C. REQUIRED RESIDENTIAL CUSTOMER WATER REDUCTIONS

1. Except for customers whose bi-monthly Baseline Water Amount is 10 units or less, residential customers in Tier 1 (bi-monthly usage of 0 to 18 units) shall be required to reduce consumption by 10% from the amount of usage of the assigned Baseline Water Amount. Customers whose bi-monthly use is 10 units or less shall not increase their usage above the amount of their assigned Baseline Water Amount.

2. All residential customers in Tier 2 (bi-monthly usage of 19 to 36 units) shall be required to reduce consumption by 20% from the amount of usage of the assigned Baseline Water Amount.

3. All residential Customers in Tier 3 (bi-monthly usage of 37 units or more) shall be required to reduce consumption 30% from the amount of usage of the assigned Baseline Water Amount.

Failure to reduce water use by the required percentage shall result in the imposition of the mandatory financial penalties contained in Subsection D, herein. No penalties shall be imposed on customers whose bi-monthly Baseline Water Amount is 10 units or less.

In accordance with Arroyo Grande Municipal Code Section 13.07.030, the City Council, may by resolution, increase the required percentage of reduction if it deems it necessary in order to achieve the projected amount of water savings established as necessary.

D. MANDATORY FINANCIAL PENALTIES

The purpose of the mandatory penalties assessed pursuant to this resolution is to assure compliance by the customer through the imposition of increasingly significant penalties so as to create a meaningful incentive to reduce water use. In acknowledgment of the fact that the City's water is scarce and irreplaceable commodity, the intent is to equitably distribute that commodity among Water Department customers and to assure that, to the extent feasible, City water is conserved and used only for purposes deemed necessary for public health and safety. Accordingly, the mandatory penalties contained herein are not to be construed as creating a "water pricing" structure pursuant to which customers may elect to pay for additional water at significantly higher rates.

For purposes of determining the number of violations (i.e. First Violation, Second Violation, etc.) that result in escalating monetary penalties, violations occurring prior to the effective date of Resolution , amending the penalty provisions contained herein, shall not be considered.

The following mandatory financial penalties will be levied on all water users who fail to reduce consumption in the percentages required in Subsections B and C herein, provided that no penalties shall be levied on customers whose bi-monthly Baseline Water Amount is 10 units or less:

First Violation: Written notice of violation and opportunity to correct violation.

Second Violation: The City shall impose a penalty of \$25. Written notice shall be given to the owner by certified mail. The penalty will be billed to the customer on the regular water bill.

Third Violation: A penalty of \$50. Written notice shall be given to the owner by certified mail. The fine will be billed to the customer on the regular water bill.

Subsequent Violations: In addition to a penalty of \$100, continued violations may be subject to referral to the City Attorney for appropriate action, including but not limited to prosecution under the Arroyo Grande Municipal Code, as well as possible discontinuance of service.

Failure to pay: The City may discontinue water service to any customer who fails to pay penalties billed on the regular water bill. Service will be restored upon full payment of all outstanding balances and reconnection charges. A delinquent bill shall also be increased by penalty of ten (10) percent of the amount of delinquency.

Customers who incur penalties may have them waived by attending a minimum two hour session of Water Conservation School, which will be conducted by the City of Arroyo Grande. The option to have penalties waived by attending Water School shall be available only one time for any customer who has incurred their first monetary penalty under the provisions contained herein.

The foregoing penalties may also be modified or amended by the City Council as deemed necessary and appropriate based upon a determination of the severity of the Water Shortage Emergency.

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