

**SAN GORGONIO PASS WATER AGENCY  
ORDINANCE NO. 9**

**AN ORDINANCE ESTABLISHING AND AMENDING  
RULES AND REGULATIONS FOR THE ORDERING OF  
WATER**

WHEREAS, the San Gorgonio Pass Water Agency (“Agency”) is a State Water Project (“SWP”) Contractor authorized to acquire waterworks, waters, and/or water rights, including but not limited to, water from the State of California from the SWP, and to provide, sell, and deliver that water under the control of the Agency to cities, agencies, districts, persons, corporations or other entities within the Agency. The Agency is a wholesale water agency organized and operating under the Chapter 101 of the San Gorgonio Pass Water Agency Law set forth in the Water Code Appendix; and

WHEREAS, the Agency is required to order SWP water from the California Department of Water Resources. In order to maximize the utility of these annual orders, and in order to plan deliveries of water during all hydrologic conditions, the Agency needs to have an estimate from each purchaser as to the amount of water needed each year; and

WHEREAS, the Board of Directors previously adopted Ordinance No. 8 which established the “Rules And Regulations For SGPWA Water Service.” The Board desires to adopt this Ordinance No. 9 in order to establish and amend the procedures for submitting and approving annual water orders as said policies are set forth in Article IV of the Rules And Regulations For SGPWA Water Service.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY AS FOLLOWS:

Section 1 All of the foregoing Recitals are true and correct and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Ordinance.

Section 2 ARTICLE IV, DELIVERY, Section 4.02 Need Forecasting Procedures of the Rules And Regulations For SGPWA Water Service, is hereby replaced, in its entirety, with the following:

1. Submittal Of SWP Orders to Meet Projected Demands. On or before September 1 of each year, each Purchaser shall submit a projection of its purchases of SGPWA Water for the next calendar year (“SWP Order”) based on its projected demand for SGPWA Water. Such SWP Orders shall be submitted on a Water Order Form which shall be provided by the Agency and which shall be subject to revision from time to time. Each Purchaser shall differentiate between Direct Deliveries and Replenishment Deliveries. “Direct Deliveries” shall be defined as deliveries directly to the connection or other facilities of the Purchaser for immediate domestic, industrial, agricultural recreational and municipal purposes within the Purchaser’s service area and shall not include any groundwater replenishment. “Replenishment Deliveries” shall be defined as deliveries to a

groundwater recharge facility that will not be used until pumped from the groundwater basin. Replenishment Deliveries to meet projected demands shall be defined as that volume of deliveries that would meet projected water demands for SGPWA water for groundwater replenishment for the calendar year ordered such that there would be no change in groundwater storage.

2. Submittal Of SWP Orders For Additional Purchases. The SWP Order may also include a projection of additional purchases of SGPWA Water which would be over and above the water needed to meet the projected demands for the applicable calendar year. It is expected that such water, if purchased, would be added to storage in the region, as it would not be needed to meet projected water demands for the applicable year. "Additional Purchases" shall be defined as deliveries for groundwater replenishment by spreading or injecting.

3. Substantiation Of SWP Orders. Purchasers will be required to substantiate their SWP Orders by reference to documentation and information as may be required by the Agency including, for example and not by way of limitation, an Urban Water Management Plan, prior year purchases, recent development, and other factors relating to short-term water demand projections. In regard to SWP Orders for Direct Deliveries, the documentation/information shall include an approximation of the projected water purchases by month, which shall be delineated on the Water Order Form. Completed and approved Order Forms will be used to help determine deliveries of SGPWA Water in drought years when orders exceed the available supply and in relatively wet years when supply exceeds the quantity of SGPWA Water ordered.

4. No Guarantee. Submittal of SWP Orders does not guarantee water deliveries in any year nor in any amount. SGPWA Water will be delivered to Purchasers only to the extent it is available from the SWP or from such other Agency sources which may be available in any given year, as said additional sources may be determined in the Agency's discretion.

5. Failure To Submit A SWP Order. The Agency requires SWP Orders by September 1 of each year in order to complete the process for submitting the Agency's orders to the California Department of Water Resources by October 1. Therefore, if a Purchaser does not submit a SWP Order on or before September 1 in any given year, the General Manager shall have the authority to complete an Order Form for that Purchaser based on the best available knowledge of that Purchaser's projected demands for the applicable year, as determined in the General Manager's discretion.

6. Approval Of SWP Orders. The General Manager will either approve the SWP Order as submitted or will revise it based on best available information, as determined in the General Manager's discretion.

7. Sale And Delivery. All sales and deliveries of SGPWA Water under a SWP Order shall be subject to the ability of the Agency to sell and deliver such water under operating conditions and constraints determined by the General Manager and subject to the

provisions of this Ordinance. In addition, all billings and payments for such water shall be in accordance with the same manner as other water delivered by the Agency.

8. Use of SGPWA Water Within Agency Service Area. Pursuant to the San Geronio Pass Water Agency Act, SGPWA Water is not to be used for the direct or indirect benefit of areas outside the service area boundaries of the Agency. Therefore, the amount of SGPWA Water served by the Agency's facilities that shall be made available to any Purchaser shall be limited to an amount equal to that required for uses within that portion of the Agency's service area lying within, or served by or through, such Purchaser.

9. Dispute Resolution. The General Manager shall notify a Purchaser on or before September 15 of each year if he/she has revised a SWP Order. If a Purchaser disputes a SWP Order which has been revised by the General Manager, the Purchaser may appeal to the Agency Board of Directors, who will make the final determination regarding the amount of the disputed SWP Order. A Purchaser shall submit any such notice of appeal to the General Manager on or before September 30 and the Board shall then hear the appeal and make a determination on or before October 31 at a regular or special Board meeting. At such an appeal, the General Manager will make a presentation regarding the basis for his/her determination on the SWP Order and the Purchaser will have the opportunity to make a presentation regarding its position on the SWP Order at issue.

Section 3 All ordinances, resolutions, minute orders, or administrative actions by the Board of Directors, or parts thereof, that are inconsistent with any provision of this Ordinance No. 9 are hereby superseded only to the extent of such inconsistency. Except as specifically set forth in this Ordinance No. 9 in regard to the replacement of **Section 4.02 Need Forecasting Procedures**, all other provisions of the Rules And Regulations For SGPWA Water Service, as adopted by way of Ordinance No. 8, shall remain in full force and effect.

Section 4 The Board finds that the revision of procedures for the submittal and consideration of SWP Orders constitutes general policy and procedure making and also constitutes organizational or administrative activities that will not result in direct or indirect physical changes in the environment. Based on this finding, the Board determines that submittal and consideration of SWP Orders, by way of adoption of this Ordinance No. 9, are exempt from the requirements of the California Environmental Quality Act pursuant to section 15378(b)(2) and (5) of the State CEQA Guidelines.

Section 5 The President of the Board of Directors shall sign this Ordinance No. 9 and the Secretary of the Board of Directors shall attest thereto, and this Ordinance No. 9 shall be in full force and effect immediately upon adoption. Within 10 days after adoption of this Ordinance No. 9, a copy of this Ordinance shall be published one time in a newspaper of general circulation with the names of the Directors voting for and against this Ordinance.

Section 6 If any section, subsection, clause or phrase in this Ordinance is for any reason held invalid, the validity of the remainder of this Ordinance shall not be affected thereby. The Board hereby declares that it would have passed this Ordinance and each section,

subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

ADOPTED this 16<sup>th</sup> day June 2014, by the Board of Directors of the San Gorgonio Pass Water Agency.

Said Ordinance was adopted, on roll call, by the following vote:


AYES: Haring, Voigt, Morris, Melleby, Duncan, Dickson and Jeter  
NOES: None  
ABSTAIN: None  
ABSENT: None

SAN GORGONIO PASS WATER AGENCY



John Jeter  
President of the Board of Directors

ATTEST:



Jeffrey W. Davis  
Secretary of the Board of Directors