



Helix Water District

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Setting standards of excellence in public service

April 13, 2015

State Water Resources Control Board
Attention: Jessica Bean
1001 I Street, 24th Floor
Sacramento, CA 95814

Sent Via Email: Jessica.Bean@waterboards.ca.gov

Re: Feedback on Mandatory Conservation Proposed Regulatory Framework

Dear Members of the State Water Resources Control Board:

On April 7, 2015, the State Water Resources Control Board released draft framework related to the Governor's Executive Order dated April 1, 2015 calling for mandatory conservation. Helix Water District, which serves over a quarter of a million people east of San Diego, appreciates the state's efforts to balance water needs with increasingly challenging water supply projections. We would like to offer the following feedback regarding the draft framework for urban water suppliers.

- 1) **The proposed water reduction target punishes those who have conserved and developed regional water supplies, and rewards those who have not.** The state's proposal to use 2013 as the baseline year against which to measure conservation seriously disadvantages communities that have had long-term, successful conservation programs in place. Moreover, the state's proposal does not give credit to agencies or regions that have invested in regional water supply reliability.

In 2014, water from the State Water Project accounted for approximately nine percent of San Diego County's water supply. This is the result of a 30 year commitment to conservation and water supply diversification.

- Over the last 30 years, Helix Water District customers have reduced district water use from 174 GPCD to 117 GPCD, and residential-only use dropped to 74 GPCD in March.
- Over the last 20 years, San Diego County residents have funded approximately \$3 billion in regional water supply reliability through their water rates;
- From 2007 to 2013, water use dropped 22 percent in the region and 267,900 acre-feet of alternative water supply was developed;
- The largest desalination facility in North America will go online this fall, and two potable reuse projects are in development;

The substantial costs for these projects have been paid for by our customers as an investment against future droughts in northern California. Under the state's proposal, they would see no benefit from their investment. We would like to see the State Water Resources Control Board consider a credit to agencies and regions for each acre-foot of regional water supply developed.

- 2) **The proposed framework threatens industrial and commercial production and local agriculture.** State regulations have shifted from focusing on achieving savings in discretionary outdoor water use to targeting commercial and industrial water uses that are critical to the regional economy. The proposed framework will hamper economic recovery in San Diego and statewide because it treats the economic use of water the same as ornamental landscape water use. Additionally, agricultural use is treated as urban water use under the proposed regulations, unlike agriculture use in other areas of the state such as the Central Valley. If left unchanged, the proposed regulations would devastate local agriculture.
- 3) **Allow regional management.** Regions such as San Diego have drought management plans in place that have been used successfully during previous droughts to manage water supply and demand. In 2012, the San Diego County Water Authority and its 24 member agencies updated the regional plan based on the previous drought. Helix Water District's *Drought Response Policy and Procedure* establishes four water supply conditions:
 - **Drought Response Level 1 / Drought Watch Condition**
Water use reduction of up to 10 percent required;
 - **Drought Response Level 2 / Drought Alert Condition**
Water use reduction of up to 20 percent required;
 - **Drought Response Level 3 / Drought Critical Condition**
Water use reduction of up to 40 percent required;
 - **Drought Response Level 4 / Drought Emergency Condition**
Water use reduction of more than 40 percent required;

to effectively manage landscaping, irrigation practices, wasteful use of water, water leaks, residential and commercial development, and allocations as needed to meet water use reduction targets. A copy of Helix Water District's policy is attached for your review.

- 4) **Postpone implementation until July 1, 2015.** The proposed framework will not be going to the State Water Resources Control Board for approval until May 4, 2015. If adopted, that gives water agencies less than 30 days to take board action on policy changes and communicate the new requirements to their customers. Additionally, for agencies considering rate changes to help meet conservation targets, a minimum public noticing period of 45 days is required for compliance with Proposition 218.
- 5) **Assess compliance with a cumulative nine month target.** This allows water agencies more flexibility in meeting their target water use reduction, helps equalize extreme weather conditions, and will not penalize agencies that need more than 30 days to implement new policies, drought levels and/or rates.
- 6) **Require local agencies to include key data in water conservation reports.** Specifically, require agencies to include the percentage of their customer accounts that are metered, the type of rate structure they use, the leak rate for their water distribution system during the reporting period and the local weather during the reporting period.

- 7) **Focus on specific regulations that address discretionary outdoor water use instead of setting percent targets based on the agencies' residential per capita use in September 2014.** Set a statewide maximum on the number of watering days per week, taking into account each agencies' local climate. Divide the state, for example, into coastal, inland and desert climate zones and calculate an ETo value for each zone and the maximum irrigation time per station. This approach is equitable, as it does not penalize those who have conserved previously, and would also take into account the climate and lot size differences throughout the state.
- 8) **Incentivize graywater.** We would like the State Water Resources Control Board to consider incentives for the installation of graywater irrigation systems, as a key strategy for maintaining urban shade trees, fruit trees and shrubs and perennials until, and after, water supply conditions improve.
- 9) **Utilize weather normalization when assigning conservation tiers.** Water needs in coastal versus inland climates are drastically different. A customer using 100 GPCD could be grossly wasting water if they have a small lot in a cool, coastal climate, while a customer could be using 150 GPCD very efficiently in a desert climate. Normalizing for weather would address this.
- 10) **Clarify how water use targets are calculated.** The proposed framework does not specify if the 10 to 35 percent water use reductions are calculated using total monthly usage or RGPCD.
- 11) **Note that not all agencies have CII water use data.** Not all agencies, including Helix Water District, will be able to provide individual data for each commercial, industrial, and institutional customer, if this data is requested. In addition, many agencies bill bimonthly and water use data lags behind monthly water production data, making it inaccurate.
- 12) **Return penalty assessments to the local agency.** If a financial penalty is assessed, return at least a portion of it to the local water agency to fund local water supply reliability projects and water conservation programs.

Again, we understand the challenge the state faces in trying to address the complex water needs and water supply situations throughout the state. We strongly suggest that these comments and recommendations be taken into consideration to develop an equitable solution that achieves the needed statewide water savings.

Sincerely,



DeAna R. Verbeke
Board President
Helix Water District

Attachment:

Helix Water District Policies and Procedures, Section 4.9: Drought Response Policy and Procedure

c: Dana Friehauf, SDCWA
David Witt, City of La Mesa
Douglas Williford, City of El Cajon
Graham Mitchell, City of Lemon Grove
Supervisor Dianne Jacob
Congressman Duncan Hunter
Senator Joel Anderson
Senator Marty Block
Assemblyman Brian Jones
Assemblymember Shirley Weber
Helix Water District Board of Directors

SECTION 4.9 DROUGHT RESPONSE POLICY AND PROCEDURE

4.9-1 POLICY

Article 10, 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.

Conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare.

Regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provide an effective and immediately available means of conserving water.

California Water Code Sections 375 et seq. authorizes water suppliers to adopt and enforce a comprehensive water conservation program.

Adoption and enforcement of a comprehensive water conservation program will allow the Helix Water District to delay or avoid implementing measures such as water rationing or more restrictive water use regulations pursuant to a declared water shortage emergency as authorized by California Water Code Sections 350 et seq.

San Diego County is a semi-arid region and local water resources are scarce. The region is dependent upon imported water supplies provided by the San Diego County Water Authority, which obtains a substantial portion of its supplies from the Metropolitan Water District of Southern California. Because the region is dependent upon imported water supplies, weather and other conditions in other portions of this state and of the southwestern United States affect the availability of water for use in San Diego County.

The San Diego County Water Authority has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of the Water Authority's programs to provide a reliable supply of water to meet the needs of the Water Authority's 24 member public agencies, including the Helix Water District. The Water Authority's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This policy is consistent with the Water Authority's Urban Water Management Plan.

As anticipated by its Urban Water Management Plan, the San Diego County Water Authority, in cooperation and consultation with its member public agencies, has adopted a Drought Management Plan, which establishes a progressive program for responding to water supply limitations resulting from drought conditions. This policy is intended to be consistent with and implemented with the Water Authority's Drought Management Plan.

The Water Authority's Drought Management Plan contains three stages and details regional actions to be taken to lessen or avoid supply shortages. This policy contains drought response levels that correspond with the Drought Management Plan stages.

The Helix Water District, due to the geographic and climatic conditions within its territory and its dependence upon water imported and provided by the San Diego County Water Authority, may experience shortages due to drought conditions, regulatory restrictions

enacted upon imported supplies and other factors. The Helix Water District has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of its programs to provide a reliable supply of water to meet the needs of the public within its service territory. The Helix Water District's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This policy is consistent with the Urban Water Management Plan adopted by the Helix Water District.

The water conservation measures and progressive restrictions on water use and method of use identified by this policy provide certainty to water users and enables the Helix Water District to control water use, provide water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of the public.

4.9-2 DECLARATION OF NECESSITY AND INTENT

The District in this Declaration of Necessity and Intent finds the following:

- 4.9-2(A)** This policy and procedure establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the Helix Water District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.
- 4.9-2(B)** This policy and procedure establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of drought response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available supplies.
- 4.9-2(C)** Level 1 condition drought response measures are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by Helix Water District. During drought response condition Levels 2 through 4, all conservation measures and water-use restrictions are mandatory and become increasingly restrictive in order to attain escalating conservation goals.
- 4.9-2(D)** During a Drought Response Level 2 condition or higher, the water conservation measures and water use restrictions established by this policy are mandatory and violations may be subject to criminal, civil, and administrative penalties and remedies specified in this policy.

4.9-3 DEFINITIONS

The following words and phrases whenever used in this Section shall have the meaning defined below:

- 4.9-3(A)** "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or

industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

- 4.9-3(B)** "Water Authority" means the San Diego County Water Authority.
- 4.9-3(C)** "DMP" means the Water Authority's Drought Management Plan in existence on the effective date of this policy and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.
- 4.9-3(D)** "Metropolitan" means the Metropolitan Water District of Southern California.
- 4.9-3(E)** "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the Helix Water District.
- 4.9-3(F)** "Conservation offset" means the implementation of proven conservation techniques which, when installed, will result in a reduction equal to demand of the proposed use. Calculation of demand and saving shall be performed or verified by the member agency or the General Manager based upon non-drought conditions.
- 4.9-3(G)** "Potable water" means water delivered by a member agency or the San Diego County Water Authority which meets drinking water standards.

4.9-4 APPLICATIONS

- 4.9-4(A)** The provisions of this policy apply to any person in the use of any water provided by the Helix Water District.
- 4.9-4(B)** This policy is intended solely to further the conservation of water. It is not intended to implement any provision of federal, state, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.
- 4.9-4(C)** Nothing in this policy is intended to affect or limit the ability of Helix Water District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.
- 4.9-4(D)** The provisions of this policy do not apply to use of water from private wells or to recycled water.

SECTION 4.9

DROUGHT RESPONSE POLICY AND PROCEDURE

4.9-4(E) Nothing in this policy shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the Helix Water District is subject to this policy in the use of the other water.

4.9-5 DROUGHT RESPONSE LEVEL 1 – DROUGHT WATCH CONDITION

4.9-5(A) A Drought Response Level 1 condition is also referred to as a “Drought Watch” condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to drought or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Drought Response Level 1 and take action to implement the Level 1 conservation practices identified in this policy.

4.9-5(B) During a Level 1 Drought Watch condition, Helix Water District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. [The same water conservation practices become mandatory if the District declares a Level 2 Drought Alert condition]:

- (1) Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.
- (2) Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
- (3) Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Consider limiting lawn watering and landscape irrigation using spray sprinklers to no more than ten (10) minutes per day. Irrigation run time should be adjusted to avoid runoff.
- (4) Stop irrigating turf and ornamental landscape during and for at least 48 hours following measurable precipitation.
- (5) Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.
- (6) Irrigate nursery and commercial grower’s products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a

SECTION 4.9 DROUGHT RESPONSE POLICY AND PROCEDURE

drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

- 7) Use re-circulated water to operate ornamental fountains.
- (8) Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.
- (9) Serve and refill water in restaurants and other food service establishments only upon request.
- (10) Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
- (11) Repair all water leaks within five (5) days of notification by the Helix Water District unless other arrangements are made with the General Manager.

4.9-5(C) During a Drought Response Level 2 condition or higher, all persons shall be required to implement the conservation practices established in a Drought Response Level 1 condition.

4.9-6 DROUGHT RESPONSE LEVEL 2 – DROUGHT ALERT CONDITION

4.9-6(A) A Drought Response Level 2 condition is also referred to as a “Drought Alert” condition. A Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The Helix Water District Board of Directors shall declare the existence of a Drought Response Level 2 condition and implement the mandatory Level 2 conservation measures identified in this policy.

4.9-6(B) All persons using Helix Water District water shall comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert, and shall also comply with the following additional conservation measures:

- (1) Limit residential and commercial landscape irrigation to no more than three (3) days per week. During the months of November through May, landscape irrigation may be limited to no more than twice per week. Watering days may be established and assigned by the General Manager and posted by the Helix Water District. This section shall not apply to commercial growers or nurseries.
- (2) Limit lawn watering and landscape irrigation using spray sprinklers to no more than ten (10) minutes per watering station per assigned day. Irrigation run time shall be adjusted to avoid runoff. This provision

does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems, stream rotor sprinklers and rotating nozzles.

- (3) Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section 4.9-6(B)(1), on the same schedule set forth in Section 4.9-6(B)(1) by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.
- (4) Repair all leaks within seventy-two (72) hours of notification by the Helix Water District unless other arrangements are made with the General Manager.

4.9-7 DROUGHT RESPONSE LEVEL 3 – DROUGHT CRITICAL CONDITION

4.9-7(A) A Drought Response Level 3 condition is also referred to as a “Drought Critical” condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The Helix Water District Board of Directors shall declare the existence of a Drought Response Level 3 condition, and shall declare a water shortage emergency pursuant to California Water Code Section 350, and shall implement the Level 3 conservation measures identified in this policy.

4.9-7(B) All persons using Helix Water District water shall comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices during a Level 3 Drought Critical condition and shall also comply with the following additional mandatory conservation measures:

- (1) Limit residential and commercial landscape irrigation to no more than two (2) days per week. During the months of November through May, landscape irrigation may be limited to no more than once per week. Watering days may be established and assigned by the General Manager and posted by the Helix Water District. This section shall not apply to commercial growers or nurseries.
- (2) Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section 4.9-7(B)(1), on the same schedule set forth in Section 4.9-7(B)(1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.
- (3) Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water

SECTION 4.9 DROUGHT RESPONSE POLICY AND PROCEDURE

feature prior to declaration of a drought response level under this policy.

- (4) Stop washing vehicles except at commercial carwashes that recirculate water, or by high pressure/low volume wash systems.
- (5) Repair all leaks within forty-eight (48) hours of notification by the Helix Water District unless other arrangements are made with the General Manager.

4.9-7(C) Upon the declaration of a Drought Response Level 3 condition, the District may implement restrictions whereby no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

- (1) A valid, unexpired building permit has been issued for the project; or
- (2) The project is necessary to protect the public's health, safety, and welfare; or
- (3) The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of Helix Water District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

4.9-7(D) Upon the declaration of a Drought Response Level 3 condition, Helix Water District will suspend consideration of annexations to its service area.

4.9-7(E) The Helix Water District may establish a water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. If the Helix Water District establishes a water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the Helix Water District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this policy. The Helix Water District Board of Directors, by resolution, shall establish the amount of the penalty in accordance with applicable law.

4.9-8 DROUGHT RESPONSE LEVEL 4 – DROUGHT EMERGENCY CONDITION

SECTION 4.9

DROUGHT RESPONSE POLICY AND PROCEDURE

- 4.9-8(A)** A Drought Response Level 4 condition is also referred to as a “Drought Emergency” condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code Section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40 percent in order for the Helix Water District to have maximum supplies available to meet anticipated demands. The Helix Water District shall declare a Drought Emergency in the manner and on the grounds provided in California Water Code Section 350.
- 4.9-8(B)** All persons using Helix Water District water shall comply with conservation measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and shall also comply with the following additional mandatory conservation measures:
- (1) Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. This restriction shall not apply to the following categories of use:
 - (a) Maintenance of trees and shrubs that are watered on the same schedule set forth in Section 4.9-7(B)(1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;
 - (b) Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;
 - (c) Maintenance of existing landscaping for erosion control;
 - (d) Maintenance of plant materials identified to be rare or essential to the well-being of rare animals;
 - (e) Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed the schedule established under Section 4.9-7(B)(1);
 - (f) Watering of livestock; and,
 - (g) Public works projects and actively irrigated environmental mitigation projects.
 - (2) Repair all water leaks within twenty-four (24) hours of notification by the Helix Water District unless other arrangements are made with the General Manager.
- 4.9-8(C)** The Helix Water District may establish a water allocation for property served by the District. If the Helix Water District establishes a water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the

District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the Helix Water District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this policy. The Helix Water District Board of Directors, by resolution, shall establish the amount of the penalty in accordance with applicable law.

4.9-9 CORRELATION BETWEEN DROUGHT MANAGEMENT PLAN AND DROUGHT RESPONSE LEVELS

4.9-9(A) The correlation between the Water Authority’s DMP stages and the Helix Water District’s drought response levels identified in this policy is described herein. Under DMP Stage 1, the Helix Water District would implement Drought Response Level 1 actions. Under DMP Stage 2, the Helix Water District would implement Drought Response Level 1 or Level 2 actions. Under DMP Stage 3, the Helix Water District would implement Drought Response Level 2, Level 3, or Level 4 actions.

4.9-9(B) The drought response levels identified in this policy correspond with the Water Authority DMP as identified in the following table:

Drought Response Levels	Use Restrictions	Conservation Target	DMP Stage
1 - Drought Watch	Voluntary	Up to 10%	Stage 1 or 2
2 - Drought Alert	Mandatory	Up to 20%	Stage 2 or 3
3 - Drought Critical	Mandatory	Up to 40%	Stage 3
4 - Drought Emergency	Mandatory	Above 40%	Stage 3

4.9-10 PROCEDURES FOR DETERMINATION AND NOTICATION OF DROUGHT RESPONSE LEVEL

4.9-10(A) The existence of a Drought Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the Helix Water District and provided to the Helix Water District Board of Directors. The General Manager may post in the lobby of the Administration Office and publish a notice of the determination of existence of Drought Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the Helix Water District. The District may also post notice of the condition on its website.

4.9-10(B) The existence of Drought Response Level 2 or Level 3 conditions may be declared by resolution of the Helix Water District Board of Directors adopted at a regular or special public meeting held in accordance with state law. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of

the response level, the Helix Water District shall publish a notice of the resolution in a newspaper used for publication of official notices.

- 4.9-10(C)** The existence of a Drought Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code Sections 351 and 352. The mandatory conservation measures applicable to Drought Response Level 4 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the Helix Water District shall publish a notice of the resolution in a newspaper used for publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the Helix Water District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.
- 4.9-10(D)** The Helix Water District Board of Directors may declare an end to a Drought Response Level by the adoption of a resolution at any regular or special meeting held in accordance with state law.

4.9-11 HARDSHIP VARIANCE

- 4.9-11(A)** If, due to unique circumstances, a specific requirement of this policy would result in undue hardship to a person using District water or to property upon which District water is used, that is disproportionate to the impacts to Helix Water District water users generally or to similar property or classes of water uses, then the person may apply for a variance to the requirements as provided in this Section.
- 4.9-11(B)** The variance may be granted or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a person using District water or to property upon which District water is used, that is disproportionate to the impacts to Helix Water District water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property.
- (1) Application. Application for a variance shall be a form prescribed by Helix Water District and shall be accompanied by a non-refundable processing fee in the amount of \$250.
 - (2) Supporting Documentation. The application shall be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
 - (3) Required Findings for Variance. An application for a variance shall be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by the records of the Helix Water District, all of the following:

- (a) That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other Helix Water District customers.
 - (b) That because of special circumstances applicable to the property or its use, the strict application of this policy would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.
 - (c) That the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the Helix Water District to effectuate the purpose of this Section and will not be detrimental to the public interest.
 - (d) That the condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.
- (4) Approval Authority. The General Manager, or his/her designee, shall exercise approval authority and act upon any completed application no later than 10 days after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory drought response.
- (5) Appeals to Helix Water District Board of Directors. An applicant may appeal a decision or condition of the General Manager on a variance application to the Helix Water District Board of Directors within 10 days of the decision upon written request for a hearing. The request shall state the grounds for the appeal. At a public meeting, the Helix Water District Board of Directors shall act as the approval authority and review the appeal de novo by following the regular variance procedure. The decision of the Helix Water District Board of Directors is final.

4.9-12 VIOLATIONS AND PENALTIES

- 4.9-12(A)** Any person, who uses, causes to be used, or permits the use of water in violation of this policy is guilty of an offense punishable as provided herein.
- 4.9-12(B)** Each day that a violation of this policy occurs is a separate offense.
- 4.9-12(C)** Administrative fines may be levied for each violation of a provision of this policy as follows:
- (1) One hundred dollars for a first violation.
 - (2) Two hundred dollars for a second violation of any provision of this

SECTION 4.9 DROUGHT RESPONSE POLICY AND PROCEDURE

policy within one year.

- (3) Five hundred dollars for each additional violation of this policy within one year.

4.9-12(D) Violation of a provision of this policy is subject to enforcement through installation of a flow-restricting device in the meter.

4.9-12(E) Willful violations of the mandatory conservation measures and water use restrictions as set forth in Section 4.9-8 and applicable during a Level 4 Drought Emergency condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code Section 356.

4.9-12(F) All remedies provided for herein shall be cumulative and not exclusive.

4.9-12(G) Nonpayment of penalties shall be processed under the policies of Section 2.5.

4.9-13 PROCEDURES FOR NOTICE AND APPEAL OF WATER CONSERVATION PENALTIES

4.9-13(A) If the District General Manager or his or her designee, determines to impose a fine on a person (“violator”) who has violated any provision of Section 4.9 of the Helix Water District Policies and Procedures, he or she shall cause a written notice of the violation to be sent to the violator. The notice shall provide in sufficient detail the violation(s), the amount of the penalty being imposed, and the date or times by which the penalty shall be paid to the District. Service of any notice required under this Section 4.9-13 shall be made by the following means:

- (1) personal service in the same manner as a summons in a civil action; or
- (2) registered United States mail, which service shall be completed at the time of deposit into the United States mail.

4.9-13(B) A violator may appeal the imposition of any penalty imposed pursuant to Section 4.9 of the Helix Water District Policies and Procedures as follows:

- (1) A violator may appeal the imposition of any penalty by completing and submitting in writing to the District Board Secretary a form provided by the District for such purpose. All appeals shall be submitted to the District Board Secretary within thirty (30) calendar days of the date of the notice of the imposition of the penalty.
- (2) The District General Manager, or his or her designee, shall review the appeal and any related information provided by the violator, and, if necessary, cause an investigation and report to be made concerning the imposition of any penalty. The District General Manager, or his or her designee, shall have twenty (20) calendar days from the

submission of the appeal to render a decision on whether to grant the appeal and mail notice thereof to the violator. If the General Manager, or his or her designee, grants the appeal and determines that any penalty was imposed in error or should be reduced, within fifteen (15) calendar days of such determination the General Manager, or his or her designee, shall;

- (a) refund the penalty or any portion thereof, if paid by the violator, for which the appeal was granted, including any additional penalties related thereto; or,
 - (b) determine and fix the correct amount of penalty for the violator, including any additional penalties related thereto, and give written notice thereof.
- (3) The decision of the General Manager, or his or her designee, may be appealed by the violator to the Board of Directors. Such appeal must be submitted in writing and filed with the District Secretary within fifteen (15) calendar days of the date of decision of the General Manager, or his or her designee. The Board of Directors shall conduct a hearing on such appeal at its next regularly scheduled Board of Directors meeting; provided, however, the Board of Directors shall have received the notice of appeal at least fifteen (15) calendar days prior to such meeting. If the appeal is not submitted within at least fifteen (15) calendar days prior to a regularly scheduled Board of Directors meeting, then the hearing shall be held at the next following regularly scheduled Board of Directors meeting. A notice of the hearing shall be mailed to the violator at least ten (10) calendar days before the date fixed for the hearing. The Board of Directors shall review the decision of the District General Manager, or his or her designee, de novo. The determination of the Board of Directors shall be conclusive and constitute a final order. Notice of the determination by the Board of Directors shall be mailed to the violator within ten (10) calendar days of such determination.
- (a) If the appeal is granted in whole or in part, within ten (10) calendar days from the date of mailing of the notice of determination by the Board of Directors, the District shall;
 - (i) refund the penalty or any portion thereof if paid by the violator, including any other penalties related thereto for which the appeal was granted; or,
 - (ii) determine and impose the correct amount of the penalty for the violator, including any other penalties related thereto.
 - (b) If the appeal is denied or granted in part, the violator shall have twenty (20) calendar days from the date of the mailing of the notice of determination by the Board of Directors to pay the penalty, and any other penalties, if any, fixed by the Board of Directors.

4.9-13(C) Until the conclusion of the appeal process, all provisions and decisions under appeal shall remain in full force and effect until the conclusion of the appeal process.

4.9-14 EFFECTIVE DATE

This policy is effective immediately upon adoption or as otherwise established by state law for Helix Water District.

4.9-15 WATER CONSERVATION/PRINCIPLES OF WATER BUDGETS
HELIX WATER DISTRICT

4.9-15(A) General

Water budgets will be assigned to all Irrigation Classes. A water budget is a tool to encourage appropriate water use during all seasons. Water budgets assign target usage for each billing cycle. Water budgets will be tied to a tiered rate billing structure. Accounts that use more water than their assigned budget target will be billed at a higher tier or tiers than the target usage tier. These higher tiers are referred to as water conservation rates.

4.9-15(B) Requirements

- (1) Water budgets are based on a property's irrigated landscape area.
- (2) Water budgets are assigned on a per meter basis for sites with more than one meter. The site is responsible for providing Helix staff with a map or description of the landscape areas served by each meter.

4.9-15(C) Procedure

- (1) Budgets will be calculated by Helix staff using the formula below in compliance with the Maximum Applied Water Allowance (MAWA) as outlined in California's Model Landscape Ordinance:

$$\text{Example, Level I: } \frac{LA \times (0.7 \times ETo) \times 0.62}{748}$$

= Water budget in HCF

- (a) LA=Irrigated landscape area in square feet
- (b) 0.7=ET Adjustment Factor
- (c) ETo=Reference Evapotranspiration from the closest CIMIS station (Escondido or Otay Lake) in inches per year
- (d) 0.62=Conversion factor (to gallons per square foot)
- (e) 1.0=ET Adjustment Factor for schools or public sites with functional use turf (e.g. parks, picnic areas, athletic fields)
- (f) The ET Adjustment Factor may be modified as the District Water Shortage Levels change (See Table A below.)
- (g) The California Irrigation Management Information System lists the historical ETo figures on-line at

<http://www.cimis.water.ca.gov>. Helix water budget calculations will be in compliance with these figures.

Table A: Water Shortage Level ET Adjustment Factor

Water Shortage Level	I	II	III	IV
ET Adjustment Factor	0.7	TBD	TBD	TBD

*TBD = To be determined by the Board.

- (2) Water budgets are calculated on a bi-monthly billing cycle basis.

4.9-15(D) Compliance

- (1) If a customer believes that the assigned budget is too low, given their site conditions, they may apply for a variance to their water budget for potential adjustments to the irrigated landscape area, plant type or other special circumstances approved by the General Manager or his/her designee.
- (2) Newly planted low-water-use landscapes (with a crop coefficient of less than 50%) are eligible to apply for an increased water budget during its establishment period not to exceed three years. The watering schedule must be reduced to comply with the site's standard water budget within three years. All requests are subject to field verification.
- (3) If the District is unable to confirm a customer's landscaped areas served by each meter, the District will calculate and assign a water budget using 75 percent of the customer's average historical use over the last three calendar years, until such time the required information is provided and confirmed.
- (4) The policy for assigning water budgets will become effective as of September 1, 2009.