

# HORNBROOK COMMUNITY SERVICES DISTRICT

## Resolution No. 2022-011

### Second Amended Declaration of Water Shortage Emergency

**WHEREAS**, on July 16, 2021, the Hornbrook Community Services District (the "District") Board of Directors adopted Resolution No. 2021-02 declaring a Water Shortage Emergency pursuant to Water Code Section 350, et seq., which remain in full force and effect, as subsequently amended by the District Board of Directors; and

**WHEREAS**, on December 20, 2021, the District Board of Directors adopted Resolution No. 2021-009 which amended the District's Water Shortage Emergency Resolution No. 2021-02 pursuant to Water Code Section 350, et seq., which remains in full force and effect, as subsequently amended by the District Board of Directors; and

**WHEREAS**, on July 14, 2022, the District Board of Directors lifted certain water use restrictions further amending the District's Water Shortage Emergency Resolution No. 2021-09 pursuant to Water Code Section 350, et seq., which remain in full force and effect, and for purposes of clarification, such amendments are hereby set forth below in the body of this Resolution; and

**WHEREAS**, on July 29, 2022, the fast-growing McKinney Fire wildfire started in the Klamath National Forest in Siskiyou County approximately 12 miles west of the Hornbrook Community Services District. As of August 1, 2022, the McKinney Fire has burned approximately 55,000 acres, becoming the state's largest wildfire so far this year and forcing evacuations in rural neighborhoods; and

**WHEREAS**, the Declaration of Water Shortage Emergency states "During this declared water shortage emergency the District shall impose other or further regulations, which the District Board of Directors determines to be necessary to ensure that water supply is used only to meet public health and safety needs"; and

**WHEREAS**, continued drought conditions and water demand continue to contribute to a water shortage emergency severely affecting and disrupting the supply of water within the Hornbrook Community Services District such that there is insufficient water for human consumption, sanitation, and fire protection unless emergency water conservation and restriction measures are implemented immediately; and

**WHEREAS**, Water Code Section 350 requires that the governing body of a distributor of a public water supply declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

**WHEREAS**, despite community conservation efforts, the leak repairs and last season's winter weather conditions, the above described fire and drought conditions and water demands continue to cause failure to the District's ability to supply water and constitutes a continued emergency and the supply of water available for distribution within such area and has not yet been adequately replenished or augmented, however, the District has determined certain water use restrictions can safely be implemented at this time; and

**WHEREAS**, pursuant to Water Code Section 351, under the current above described circumstances the continued failure of the District water supply qualifies the District to be exempt from causing notice of this Second Amended Declaration of Water Shortage Emergency to be published in accordance

with applicable statutory requirements set forth at Water Code Section 352 and the public hearing process set forth at Water Code Section 351; and

**WHEREAS**, Water Code Section 353 states that when the governing body has so determined and declared the existence of continued emergency conditions of water shortage within its service area, it shall thereupon adopt such amended regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection; and

**WHEREAS**, Water Code Section 354 states that after allocating and setting aside the amount of water which in the opinion of the governing body will be necessary to supply water needed for domestic use, sanitation, and fire protection, the regulations may establish priorities in the use of water for other purposes and provide for the allocation, distribution, and delivery of water for such other purposes, without discrimination between consumers using water for the same purpose or purposes; and

**WHEREAS**, Water Code Section 355 states that such regulations and restrictions shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented; and

**WHEREAS**, Water Code Section 356 states that such regulations and restrictions may include the right to deny applications for new or additional service connections, and provision for their enforcement by discontinuing service to consumers willfully violating the regulations and restrictions; and

**WHEREAS**, Water Code Section 357 states that if the regulations and restrictions on delivery and consumption of water adopted pursuant to the above mentioned Water Code Sections conflict with any law establishing the rights of individual consumers to receive either specific or proportionate amounts of the water supply available for distribution within such service area, the regulations and restrictions adopted pursuant to said Water Code Sections shall prevail over the provisions of such laws relating to water rights for the duration of the period of emergency.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HORN BROOK COMMUNITY SERVICES DISTRICT AS FOLLOWS:**

1. That the foregoing recitals are true and correct and are incorporated by this reference as fully set forth herein.
2. That Resolution No. 2021-02 adopting the District's Declaration of Water Shortage Emergency remains in full force and effect except as amended by the First Amendment to the Declaration of Water Shortage Emergency and as amended by this Second Amendment to the Declaration of Water Shortage Emergency.
3. The Board of Directors finds and determines, pursuant to Water Code Section 350, that despite the above described community conservation efforts, leak repairs and this past winter weather conditions, drought conditions, the McKinney Fire disaster conditions, and current water demands continue to cause failure to the District's ability to supply water and constitutes a continued emergency and the supply of water available for distribution within such area has not been adequately replenished or augmented, however, the District has determined that existing customer flow restrictors may be removed by the District, that locked out customers who make arrangements to pay their

past due bills may be reconnected, and a cap on maximum water usage can safely be implemented at this time without depleting the water supply of the District to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

4. The Board of Directors finds and determines, pursuant to Water Code Section 351, that the District's water supply has failed and there exists an immediate emergency to the water supply of the District to the extent that there is insufficient water for human consumption, sanitation, and fire protection and that a such an immediate emergency exempts the District from the noticed published hearing process set forth at Water Code Sections 351 & 352.
5. The Board of Directors is hereby authorized to adopt such regulations and restrictions on the delivery of water and the consumption within the District of water supplied for public use as will in the sound discretion of such governing body to restrict and conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection, pursuant to Water Code Section 353.
6. The Board of Directors finds and determines that due to community conservation efforts, past winter weather conditions and the detection and repair of two water system leaks, and the need to prepare for the McKinney Fire approaching the Hornbrook Community, the District has determined that existing customer flow restrictors may be removed by the District, that locked out customers who make arrangements to pay their past due bills may be reconnected, and a cap on maximum water usage, 12,000 gal per a 30 day month which equals 400 gal per day can safely be implemented as the District has completed the well # 5 project and is now on line

7. Based on the forgoing determinations and findings of the Board of Directors, the following amendments to the Declaration of Water Shortage Emergency shall immediately apply:

1. Section 6(a) of the Declaration of Water Shortage Emergency shall be amended to add an additional 100 gallons of water per household per day. As a result, all residential water users shall now be restricted to 400 gallons of water per household per day. The District Board of Directors reserves the right to make further adjustments as needed to protect the health and safety of the public.
2. Section 6(b) of the Declaration of Water Shortage Emergency shall be amended to authorize the District to remove all existing flow restrictors, unlock and restore meters, turn on existing meters and allow the District to approve new customer hook ups provided all costs, fees, and past due amounts owed to District have been paid in full by the customer prior to requesting such relief or service. The District Board of Directors reserves the right to deny new water service connections or commitments for new water service in the event the customer

refuses to pay any amounts owed to the District and/or refuses to pay for the costs associated with such new water connection or water commitment in compliance with District requirements. The District Board of Directors reserves the right make further adjustments as needed to protect the health and safety of the public.

3. In the event that the District observes that water use is in violation of these Declaration of Water Shortage Emergency regulations is occurring at a customer's premises, the District may, 1. a written warning to the customer for using more than the 400 gal per day, 2. authorize installation of a flow-restricting device on the service line for any customer observed by the District to be willfully violating the water allotment a second time. Any customer that uses 25,000 gal of water at any time will receive a flow restrictor. the event that a further willful violation is observed by the District, the District may discontinue service. Charges for the installation of flow-restricting devices or restoring service may be fixed by the District Board of Directors from time to time.
4. Water waste, as defined in Section 6(m)(i )of the Declaration of Water Shortage Emergency, is amended as follows:

“Water waste” means;

1. Residential water use that exceeds the 400 gallons per household per day limit set above at Section 6(a) of this Declaration of Water Shortage Emergency, and this Second Amended Declaration of Water Shortage Emergency.”
8. All other terms and conditions of the Declaration of Water Shortage Emergency shall remain in full force and effect.
9. If any provision of this Second Amended Declaration of Water Shortage Emergency is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and the remainder of this Second Amended Declaration of Water Shortage Emergency shall remain operative and binding  
Passed and adopted by the Board of Directors of the Hornbrook Community Services District at their meeting held on this 9h day of August 2022, by the following vote:

AYES:  
NOES:  
ABSENT:

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President of the Board

ATTEST:

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Secretary of the Board