

ORDINANCE No. 69

AN ORDINANCE OF THE BOARD OF DIRECTORS OF INLAND EMPIRE UTILITIES AGENCY*, A MUNICIPAL WATER DISTRICT, REGULATING THE AVAILABILITY AND USE OF RECYCLED WATER FROM THE REGIONAL RECYCLED WATER DISTRIBUTION SYSTEM

WHEREAS, The California State Legislature adopted the Recycled Water Act of 1991 with the intent of promoting the implementation of recycled water projects throughout the State of California;

WHEREAS, The Recycled Water Act of 1991 has been amended from time to time to strengthen the level of cooperation and coordination among and between the recycled water producers, the recycled water retailers, and the recycled water customers within the State of California;

WHEREAS, The Regional Sewage Service Contract, (Section 15, paragraph B) provides each Contracting Agency with the right of first purchase, for that volume of recycled water, up to the quantity of its base entitlement, that is tributary to the Regional Wastewater Treatment System from its service area;

WHEREAS, Inland Empire Utilities Agency* (IEUA*) has maintained its National Pollution Discharge Elimination Permit (a Master Recycling Permit, pursuant to Water Code Section 13523.1) and continues to own and operate the Regional Wastewater Treatment System which produces high-quality recycled water for distribution to its Contracting Agencies and certain retail customers;

WHEREAS, IEUA* has developed a Regional Recycled Water Distribution System for the delivery of recycled water to its Contracting Agencies and other customers within the IEUA* service area;

WHEREAS, The Regional Sewage Service Contract defines and declares that a wastewater collection sewer serving two or more Contracting Agencies is a regional asset, so too shall recycled water distribution pipelines serving two or more Contracting Agencies be defined as regional assets controlled and operated by IEUA*;

WHEREAS, The Regional Sewage Service Contract has made provisions for the annual review and establishment of the Regional Wholesale Recycled Water Rate associated with the ongoing operation and maintenance of both the Regional Wastewater Treatment System and the Regional Recycled Water Distribution System;

WHEREAS, The staff of IEUA*, together with the review of the Regional Advisory Committees, have committed to performing the necessary annual calculations for the preparation of such rates and adopt them as a routine task of annual budget preparation; and

WHEREAS, The Wholesale Recycled Water Rate determined annually shall be a wholesale rate. The actual retail recycled water rates are adopted by the local agency based on the cost of service.

BE IT ORDAINED by the Board of Directors of the Inland Empire Utilities Agency* as follows:

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PART I - INTRODUCTION

SECTION 101 - AUTHORIZATION

This Ordinance is enacted pursuant to the authority contained in the Municipal Water District Law of 1911; California Water Code, Section 71000 et. seq., as amended; and pursuant to the Recycled Water Act of 1991, California Water Code, commencing with Section 13575; as these documents now exist and as they may be amended from time to time.

SECTION 102 - PURPOSE

The purpose of this Ordinance is to promote the conservation of all water resources and to provide for the maximum public benefit from the use of recycled water supplies made available from the wastewater treatment facilities owned and operated by IEUA*. The use of recycled water will be encouraged and provided for uses including, but not limited to: landscape irrigation, commercial and/or industrial process, construction, groundwater recharge, wildlife habitat, recreational impoundment, agriculture, and any additional uses permitted under Title 22, Division 4, Chapter 3, Water Recycling Criteria, Section 60301 et. seq., of the California Code of Regulations.

SECTION 103 - INTENT

The Ordinance is intended to incorporate retail utility specific requirements as approved and adopted by the Contracting Agencies, water districts, and other local agencies.

This Ordinance shall also provide for the establishment of certain rules, requirements, and responsibilities, under which, recycled water service is provided and shall supplement local municipal requirements and standards.

SECTION 104 - EXTENSION OF MASTER RECLAMATION PERMIT AUTHORITY

Section 13523.1 of the California Water Code states that a recycled water supplier or distributor may be issued either waste discharge requirements or a master reclamation permit. IEUA* is a supplier of recycled water as a result of the operation of the wastewater treatment plant owned and operated under the terms of the Regional Sewage Service Contract. The IEUA* National Pollution Discharge Elimination System Permit also serves as a master reclamation permit. The Contracting Agencies, as signatories to the Regional Sewage Service Contract, shall enjoy all of the privileges and responsibilities of the master reclamation permittee. Accordingly, permittee shall be responsible for compliance with the terms and condition of the IEUA National Pollution Discharge Elimination System permit and shall indemnify and hold IEUA harmless for any fines, penalties and/or assessments arising from a violation of said permit by permittee.

SECTION 105 - DEFINITION OF TERMS

- (A) APPLICANT: any person, firm, corporation, association, or agency that applies for recycled water service as provided in accordance with this Ordinance.

- (B) AUTHORIZED REPRESENTATIVE: A person, group, firm, partnership, corporation, association, or agency that, pursuant to written permission, from the owner of a property, has the responsibility for establishing recycled water service for a given property.
- (C) BOARD OF DIRECTORS: the Board of Directors of Inland Empire Utilities Agency* (IEUA*).
- (D) CHIEF EXECUTIVE OFFICER/GENERAL MANAGER: shall mean the Chief Executive Officer/General Manager, or a duly Authorized Representative, of IEUA*.
- (E) CONTRACTING AGENCY: a Public Agency that has, by due process, become a signatory to the IEUA* Regional Sewage Service Contract.
- (F) DIRECT RECYCLED WATER USER: any person, group, firm, partnership, corporation, association, or agency that, pursuant to an approved Recycled Water Use Permit, directly purchases recycled water from the IEUA* Regional Recycled Water Distribution System.
- (G) DOHS: State of California Department of Health Services.
- (H) INDIRECT RECYCLED WATER USER: any person, group, firm, partnership, corporation, association, or agency that, pursuant to an approved Recycled Water Use Permit, purchases recycled water from the IEUA* Regional Recycled Water Distribution System by contract with a Retail Water Agency.
- (I) LOCAL RECYCLED WATER DISTRIBUTION SYSTEM: a recycled water distribution system which is owned and/or operated by a Retail Water Agency; the local recycled water distribution system is generally an approved extension of the Regional Recycled Water Distribution System.
- (J) NPDES PERMIT: National Pollutant Discharge Elimination System Permit issued to regulate the operation of a wastewater treatment plant, the quality of recycled water produced, and to provide a master recycling permit.
- (K) OWNER: the owner of a property that is anticipated to receive or is currently receiving recycled water service.
- (L) PERSON: shall mean any individual or entity including but not limited to any person, firm, company, or corporation, partnership, association, any public corporation, political subdivision, city, county, district, the State of California, the United States of America or any department or agency thereof. The singular in each case shall include the plural.
- (M) RECYCLED WATER: as defined in Title 22, Division 4, Chapter 3, Water Recycling Criteria, Section 60301 et. seq., of the California Code of Regulations; water which is available as a result of the treatment of wastewater. Also as described in subdivision (n) of Section 13050 of the Water Code of the State of California, treated wastewater that is suitable for direct beneficial use or a controlled use that otherwise would not occur.

- (N) RECYCLED WATER PRODUCER: any local entity that produces recycled water.
- (O) RECYCLED WATER USE PERMIT: a document evidencing that an application for connection to the Regional Recycled Water Distribution System has been prepared by a Retailer and examined by IEUA* staff.
- (P) RECYCLED WATER WHOLESALER: any local entity that distributes recycled water to a Retailer and which has constructed, or is constructing, a wholesale recycled water distribution system.
- (Q) REGIONAL RECYCLED WATER DISTRIBUTION SYSTEM: the equipment, structures, controls, etc., used in the preparation, pumping, transmission, storage, and distribution of recycled water; owned and operated by IEUA*.
- (R) RETAIL WATER AGENCY: any local entity, a public agency, or a private water company in whose service area is located the property to which a customer requests the delivery of recycled water.
- (S) SERVICE: the delivery of recycled water.
- (T) SERVICE CONNECTION: the IEUA* facilities or the Retailer's facilities, including but not limited to, a service valve, a meter box, a meter, and piping; between the Regional Recycled Water Distribution System and the Customer's on-site facilities, or between the Retail Water Agency's facilities and the Customers on-site facilities.
- (U) WHOLESALE OF RECYCLED WATER: the transfer/sale of recycled water, from IEUA* to a Retail Water Agency.
- (V) WHOLESALE RECYCLED WATER RATE: the rate for a unit of recycled water that will be set annually, by resolution of the IEUA* Board of Directors.

SECTION 106 - SEVERABILITY

If any section, subsection, sentence, clause or phrase of these rules, regulations, or requirements is for any reason found to be invalid or unconstitutional, such decision shall not affect the remaining portions of this Ordinance. The Board of Directors of IEUA* declares that it would have approved these rules, regulations, and requirements individually by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 107 - RECYCLED WATER SERVICE AREA

This Ordinance shall pertain to the implementation and the on-going operation of the Regional Recycled Water Distribution System within the legal boundaries of IEUA's* service area, unless otherwise stated. With the expressed approval of the Board of Directors, recycled water service shall also be extended to lands, uses, and/or improvements lying outside the legal boundaries of IEUA's* service area.

PART II - RECYCLED WATER SERVICE

Part II establishes the process for the application for recycled water service. An applicant, at IEUA's discretion, may be connected directly to the Regional Recycled Water Distribution System, or may be connected indirectly to the Regional Recycled Water Distribution System via laterals that may be owned and operated by Contracting Agencies, or other Retail Water Agencies within the IEUA* service area. Records for each connection, direct or indirect, shall be consistent for all applicants.*

SECTION 201 - GENERAL

IEUA* may provide Recycled Water Service for applicants whose property falls outside of a Retail Water Agency's service area. If the applicant's property falls within a Retail Water Agency's service area the applicant shall be prepared to enter into a contact with the Retail Water Agency to apply for Recycled Water Service. Depending on the location of a given property, the lowest cost Recycled Water Service could be provided through a direct connection to the Regional Recycled Water System within the Retail Water Agency's service area or through a connection to the Retail Water Agency's local distribution system. To execute such a connection the Applicant and the Retail Water Agency shall enter a Recycled Water Service Agreement with IEUA* for Recycled Water Service on a case-by-case basis.

Whether IEUA* provides the direct delivery of Recycled Water or delivery through a local Retail Water Agency, IEUA* assumes the primary responsibility to assure that recycled water quality distributed to and utilized, in accordance with the provisions of this Ordinance, and in compliance with applicable Federal, State, and Local statutes. The Retail Water Agency shall, from the point of connection to the Regional Recycled Water Distribution System, be responsible for the recycled water quality distributed to and utilized by all subsequent connections, in accordance with the provisions of this Ordinance, and in compliance with applicable Federal, State, and Local statutes.

SECTION 202 - RECYCLED WATER USE PERMIT

To receive Recycled Water Service, a property owner or an authorized representative, of the property, that is intended to be served with recycled water, must submit a completed application for Recycled Water Service. A Recycled Water Use Permit shall be required and on file at the Retail Water Agency.

The service-area wide design criteria, for the on-going development and implementation of the recycled water systems, will be regularly scheduled for discussion at the Regional Technical Committee meetings. The design criteria will be incorporated into the Regional Recycled Water Distribution System Connection Permit.

SECTION 203 - APPLICANT'S RESPONSIBILITY

A Recycled Water Service Application must be made in writing, signed by the Applicant. In the event that the Applicant and the property owner are not one and the same, the Applicant shall have the written authorization of the property owner. By signing the Application, the

owner/applicant shall agree to comply with the requirements of any and all applicable Federal, State, and Local statutes, ordinances, regulations, and all other requirements including this Ordinance. The applicant shall, as evidenced by their signature on the application form, agree to comply with this Ordinance and any and all other applicable governing documents.

SECTION 204 - PROTECTION FROM DAMAGE

No Person shall maliciously, willfully, or negligently break, damage, destroy, impair the usefulness, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the Regional Recycled Water Distribution System. Similarly, no Person shall maliciously, willfully, or negligently break, damage, destroy, impair the usefulness, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of either On-site Facilities or Off-site Facilities that could prevent the full function of the Regional Recycled Water Distribution System.

PART III - RATES

SECTION 301 - RECYCLED WATER USE CHARGE

The rate for a unit of recycled water will be set, annually, by resolution of the IEUA* Board of Directors. Said recycled water rate shall be based on the actual costs of operation of the Regional Wastewater Treatment System, the actual costs of operation of the Regional Recycled Water Distribution System, any associated administrative expenses, and anticipated costs for the next fiscal year.

SECTION 302 - BILLING AND PAYMENT

- (A) IEUA* shall invoice Retail Water Agencies for actual monthly volumetric usage. Retail Water Agencies shall pay to IEUA*, within thirty (30) calendar days of the date of the postmark on the envelope within which the invoice was delivered, an amount determined by multiplying the actual quantity of recycled water delivered, by the applicable Wholesale Recycled Water Rate, as calculated on the invoice.
- (B) IEUA* shall invoice a Customer, which is directly connected to the Regional Recycled Water Distribution System, for actual monthly volumetric usage. The Customer shall pay to IEUA*, within thirty (30) calendar days of the date of the postmark on the envelope within which the invoice was delivered, an amount determined by multiplying the actual quantity of recycled water delivered, by the applicable Recycled Water Rate, as calculated on the invoice.
- (C) In the event the payment of an invoice for Recycled Water deliveries remains unpaid, for any reason, more than thirty (30) calendar days, it will become delinquent and a penalty of two percent (2%) of the original unpaid invoice amount shall be added to original invoice amount. The 30-day interval will be determined by either the postmark on the payment envelope or, in the case of a hand delivered payment, the date the payment is received and date stamped by the IEUA* main office receptionist (see Appendix D for

directions to the IEUA* main office). After a second 30-day period, a second penalty will be assessed, etc.

- (D) Additionally, interest, at the maximum rate provided by California Government Code Section 54348 as may be amended from time to time, shall accrue commencing at the end of the 30th day after the postmark of the invoice. Interest shall accrue on the total outstanding balance: the original invoice amount plus applicable penalties.

SECTION 303 - APPEAL OF PENALTY AND/OR INTEREST CHARGES

- (A) The penalty amount(s) and the interest amount(s) provided in Section 302 may be waived by the Board of Directors. To obtain such a waiver, a Customer will provide a written request for a waiver to the Board of Directors. In the written request, the Customer shall document the reasons for the delinquency of a specific invoice. After the Board of Directors makes a finding that the delinquency was caused by excusable neglect or circumstances beyond the control of the Customer, the penalty amount(s) and/or the interest amount(s) may be reduced or waived. Such a waiver will be contingent upon the reimbursement of IEUA* for any and all actual costs that may have been incurred as a result of the delinquent payment, as determined by the Board of Directors.

SECTION 304 - ERRORS

In the event an error is discovered in any Recycled Water Sales record or invoice, the Chief Executive Officer/General Manager shall initiate appropriate corrective action. If a record from a Customer is submitted, or an invoice is issued based on such a record, contains an error; then the Chief Executive Officer/General Manager shall notify the affected Customer of any adjustment and the manner of making any required credit or additional charge. Neither of which shall be subject to an interest calculation. Errors made or recorded more than three (3) years prior to discovery shall not be corrected with adjustments to amounts owed or paid; Customer files shall be updated to reflect the correction.

PART IV - ON-SITE CONTROLS

SECTION 401 - IMPLEMENTATION

To protect the health of the public and any (potential) employees of the Customer, the DOHS has promulgated guidelines and regulations. The minimum necessary on-site controls are contained in Title 22, Division 4, Chapter 3, Water Recycling Criteria, Sections 60301 et. seq., and Title 17; both of the California Code of Regulations, and in the County Public Health Code.

SECTION 402 - STATE /LOCAL REGULATIONS

Recycled water system on-site controls shall meet all of the requirements established by IEUA* and the applicable State and local regulatory agencies to protect the public health.

Plans and specifications for all proposed recycled water operations, distribution, and on-site systems shall be submitted to the applicable State and local health agencies for review and approvals before the systems are constructed.

SECTION 403 - OPERATIONAL CONTROLS

The operational controls for the use of recycled water shall be appropriate for the beneficial use as approved in the Recycled Water Use Permit. Appendix D shall be maintained with the recommended equipment and procedures to achieve the control objectives necessary for the safe and reliable delivery of recycled water.

SECTION 404 - IDENTIFICATION

- (A) All recycled water valves, outlets, quick couplers, and sprinkler heads should be of a type, or secured in a manner that only permits operation by personnel authorized by the Customer.
- (B) All recycled water valves and outlets should be appropriately tagged to warn the public and employees that the water is not intended nor allowed for drinking.
- (C) All piping, valves and outlets should be color-coded or otherwise marked to differentiate recycled water from non-recycled water facilities.
- (D) Hose bibs shall not be used in the recycled water system; quick couplers or comparable connection devices shall be used instead.

SECTION 405 - POSTING OF ON-SITE NOTIFICATIONS

Adequate means of notification shall be provided to inform the public, employees and others that recycled water is being used. Such notification shall include the posting of conspicuous Recycled Water information signage with proper wording of sufficient size to be clearly read, which shall be posted at adequate intervals around the use area. In some locations, especially at crop irrigation use areas, the Recycled Water information signs shall be in the primary language of the workers (i.e., Spanish), as well as English. Signs and means of notification shall be in compliance with DOHS regulations.

Signs shall be placed around the perimeter of the site and at such other locations on-site as deemed appropriate by the Retailer during the Recycled Water Use Permit application review.

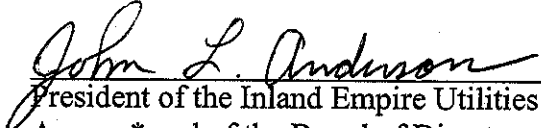
SECTION 406 - CROSS CONNECTION PREVENTION

The Customer is responsible for following their Potable Water Purveyor's rules, regulations and/or Ordinance regarding cross connection prevention.


PART V - EFFECTIVE DATE

Upon adoption, the effective date of all provisions of this Ordinance No. 69, shall be May 18, 2000.

ADOPTED this 18th day of May, 2000.


President of the Inland Empire Utilities
Agency* and of the Board of Directors
thereof

ATTEST:


Secretary of the Inland Empire Utilities
Agency* and of the Board of Directors
thereof

* A Municipal Water District

STATE OF CALIFORNIA)
)SS
COUNTY OF)
SAN BERNARDINO)

I, Anne Dunihue, Secretary of the Inland Empire Utilities Agency* DO HEREBY CERTIFY that the foregoing Ordinance being No. 69, was adopted at an adjourned regular Board Meeting on May 18, 2000, of said Agency by the following vote:

AYES: Dunihue, Troxel, Koopman, Anderson

NOES: None

ABSTAIN: None

ABSENT: Catlin



Secretary

*A Municipal Water District