

ORDINANCE NO. 75

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

WHEREAS, The California State Legislature adopted the Recycled Water Act of 1991, and on January 10, 2000, the Legislature established in the State Water Code Section 13500, known as and may be cited as the Water Recycling Law; Section 13550. (a), declared that the use of potable domestic water for nonpotable uses is a waste or an unreasonable use of potable water within the meaning of Section 2 of Article X of the California Constitution if recycled water is available and meets all conditions of a potential user, as determined by the State Board, pursuant to Article 2 (commencing with Section 648) of Chapter 1.5 of Division 3 of Title 23 of the California Code of regulations."

WHEREAS, Inland Empire Utilities Agency* (IEUA*) has established and operates the IEUA* Regional Water Recycling Plant treatment systems and has maintained its National Pollution Discharge Elimination Permit (a Master Recycling Permit, pursuant to Water Code Section 13523.1) and produces high-quality recycled water, having unrestricted use except for direct potable uses, for distribution to its Contracting Agencies and certain other municipal and private water retail companies;

WHEREAS, IEUA* has developed and continues expand its Regional Recycled Water Distribution System for the delivery of recycled water to its Contracting Agencies and other municipal and private water retail companies within and outside the IEUA* service area as described in the Recycled Water Feasibility Study consistent with the adopted Urban Water Management Plan and the Optimum Basin Management Program;

WHEREAS, IEUA* and it's Contracting Agencies are desirous to comply with conservation of all available water resources, therefore, IEUA and it's Contracting Agencies require the maximum reuse of recycled water for beneficial uses, and thus, agree that continued use of potable water for industrial uses and irrigation of greenbelt areas, including golf courses, parks, and highway landscaped areas, and certain other non-domestic water uses may be an unreasonable use of such water where recycled water is available;

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; and Section 13500, known as and may be cited as the Water Recycling Law, including Section 13550.

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 reuse of recycled water supplies made available from the Regional Water Recycling Plants (RWRPs) 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 - DEFINITION OF TERMS

The following terms are defined for the purposes of this Ordinance:

- (A) ADEQUATE QUALITY: Means the quality which satisfies the requirements of regulatory agencies for a particular use.
- (B) AGRICULTURAL PURPOSES: Agricultural purposes include the growing of field and nursery crops, row crops, trees, and vines and the feeding of fowl and livestock.
- (C) ARTIFICIAL LAKE: A human-made lake, pond, lagoon, or other body of water that is used wholly or partly for landscape, scenic or direct contact recreational purposes.
- (D) COST: Means the amount paid by the customer for recycled water service.
- (E) BOARD OF DIRECTORS: The Board of Directors of Inland Empire Utilities Agency* (IEUA*).
- (F) CHIEF EXECUTIVE OFFICER/GENERAL MANAGER: Shall mean the Chief Executive Officer/General Manager, or a duly Authorized Representative, of IEUA*.
- (G) COMMERCIAL BUILDING: Any building for office or commercial uses with water requirements which include, but are not limited to, landscape irrigation, toilets, urinals and decorative fountains.

- (H) CONTRACTING AGENCY: A Public Agency that has, by due process, become a signatory to the IEUA* Regional Sewage Service Contract.
- (I) DOHS: State of California Department of Health Services.
- (J) FEASIBLE: Means capable of completion within a reasonable period of time for a reasonable price.
- (K) GREENBELT AREAS: A greenbelt area includes, but is not limited to, golf courses, cemeteries, parks and landscaping.
- (L) INDUSTRIAL PROCESS WATER: water used by any industrial facility with process water requirements which include, but are not limited to, rinsing, washing, cooling and circulation, or construction, including any facility regulated by the industrial waste discharge ordinance of the Agency.
- (M) 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.
- (N) NPDES PERMIT: National Pollutant Discharge Elimination System Permit issued to regulate the operation of a recycled water treatment plant, the quality of recycled water produced, and to provide a Master Recycling Permit.
- (O) OFF-SITE FACILITIES: Water facilities from the source of supply to the point of connection with the on-site facilities. Including the water meter.
- (P) ON-SITE FACILITIES: Water facilities under the control of the owner, downstream from the water meter.
- (Q) OWNER: The owner of a property that is anticipated to receive or is currently receiving recycled water service.
- (R) 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.
- (S) POTABLE WATER: Water which conforms to the federal, state and local standards for human consumption.
- (T) 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.

- (U) RECYCLED WATER CUSTOMER: Existing or future properties requiring water supply which is identified as recycled water customer per Section 204-A.
- (V) RECYCLED WATER PRODUCER: Any local entity that produces recycled water.
- (W) 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 and approved by IEUA* staff.
- (X) 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.
- (Y) REGIONAL RECYCLED WATER DISTRIBUTION SYSTEM: The pipelines, equipment, structures, controls, etc., used in the preparation, pumping, transmission, storage, and distribution of recycled water; owned and operated by IEUA*.
- (Z) RETAIL WATER AGENCY (Retailer): 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.
- (AA) SERVICE CONNECTION: The IEUA* facilities or the Retail Water Agency'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.
- (BB) SUFFICIENT QUANTITY: Means an amount of water needed to satisfy requirements without interruption.
- (CC) WHOLESALE OF RECYCLED WATER: The transfer/sale of recycled water, from IEUA* to a Retail Water Agency.
- (DD) 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 104 - WATER RECYCLING MASTER PLAN

- (A) **GENERAL**: The IEUA has prepared and adopted the IEUA Recycled Water System Feasibility Study (Study), January 2002, to define, encourage and develop the use of recycled water within its service area. The Study shall be updated not less often than every five years.
- (B) **CONTENTS OF THE WATER RECYCLING MASTER PLAN**: The Study includes, but is not limited to:

- a. **PLANTS AND FACILITIES:** Evaluation of the location and size of present and future recycling facilities, distribution pipelines, pump stations, reservoirs, and other related facilities, including cost estimates and potential financing methods.
- b. **RECYCLED WATER SERVICE AREAS:** A designation, based on the criteria set forth in SECTION 103, and the information derived from SECTION 105, (A) and (B) a and b, of the areas within the boundaries of IEUA that can or may in the future use recycled water in lieu of potable water. Recycled water uses may include, but not be limited to the irrigation of greenbelt and agricultural areas, filling of artificial lakes, and appropriate industrial and commercial uses.

SECTION 105 - 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 106 - RECYCLED WATER SERVICE AREA

This Ordinance shall pertain to the on-going operation, expansion and implementation 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 IEUA* 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 - VOLUNTARY RECYCLED WATER USE

SECTION 201 - RECYCLED WATER SERVICE FOR CUSTOMERS

IEUA* may provide recycled water service for certain other municipal agencies or private water retail companies whose service area/property falls outside of a IEUA service area. If a customer's (recycled water user) property falls within a Retail Water Agency's service area the customer shall be prepared to accept recycled water service from the Retail Water Agency. Depending on the location of a given property, IEUA and the Retail Water Agency shall determine the method for delivery of recycled water; it may be provided through a direct connection to the IEUA 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.

PART III – MANDATORY RECYCLED WATER USE

SECTION 301 – FUTURE CUSTOMERS

In the event a development application is reviewed and found to be a suitable application for use of recycled water, but recycled water is not yet available to the property, such development permit

shall be conditioned to require an appropriate recycled water distribution system within the project to accommodate recycled water at such time as recycled water becomes available to the site.

SECTION 302-- EXISTING CUSTOMERS

- (A) The Retail Water Agency's engineer and the IEUA's* engineer, in consultation with the prospective recycled water customer(s), shall implement a program of review of each parcel of property within the Retail Water Agency's service area to determine which parcels would be appropriate for using recycled water for industrial processing, landscape irrigation, or other appropriate uses by the then existing customer(s).
- (B) Based on the Study, addressing the designation of each recycled water service area or the commencement of the design of new recycled water facilities, IEUA and the Retail Water Agency shall make preliminary determinations as to which existing potable water customers shall be converted to the use of recycled water. Each water customer shall be notified of the basis for determining that conversion to recycled water service will be required, as well as, the proposed conditions and schedule for conversion.
- (C) In making such determination, the Retail Water Agency's engineer and the IEUA's* engineer, in consultations with the prospective recycled water customer(s), shall consider, but not be limited to, the following factors:
1. Whether recycled water is or will be available to the site.
 2. Whether the uses, processes or equipment used on the site can safely and effectively be operated with recycled water.
 3. Whether it is feasible to modify on-site facilities to utilize recycled water.
 4. Whether the use of recycled water would be cost-effective, technically feasible and cost-competitive for prospective recycled water customers.
- (D) If a property is identified as being suitable for use of recycled water and recycled water is or will be available to the site, the potential customer (property owner) shall be notified. The notice provided to a potential recycled water customer of the preliminary determination, including the proposed conditions and time scheduled for compliance shall be delivered or mailed to the potential recycled water customer.
- (E) Within thirty (30) days of such notification, the potential customer (property owner or the occupant) of the property must either:
1. apply for the use of recycled water and commence the necessary work to convert to recycled water, or
 2. provide satisfactory evidence to the Retail Water Agency's engineer and the IEUA's* engineer, that conversion of the site to use recycled water is not technically or economically feasible, or
 3. would result in the loss of diminution of an existing water right, or
 4. would be harmful to the public health, safety, welfare, or to the environment.

(F) At the time of commencing the work, the property owner shall furnish the Retail Water Agency's engineer and the IEUA's* engineer, a schedule showing the time frame of when the conversion work will be completed. The Retail Water Agency's engineer and the IEUA's* engineer may grant an extension of time for the preparation of studies, environmental review or other good reason.

(G) OBJECTIONS / APPEALS:

1. The water customer may file a notice of objection within thirty (30) days after any notice of determination to comply is delivered or mailed to the customer, and may request reconsideration of the determination or modification of the proposed conditions or schedule for conversion.
2. The objection must be in writing and specify the reasons for the objection.
3. The preliminary determination shall be final if the customer does not file a timely objection.
4. The Retail Water Agency and the IEUA staff shall review the objection and shall confirm, modify or abandon the preliminary determination.
5. Upon issuance of a final determination by staff, customer may appeal the determination as follows:
 - a. The customer may appeal to the Retail Water Agency Manager; and if not satisfied,
 - b. the customer may then appeal to IEUA General Manager; the IEUA General Manager's decision shall be final.

SECTION 303 – FAILURE TO COMMENCE USE OF RECYCLED WATER

The General Manager shall identify and give notice to all persons, firms, and corporations which have failed to commence the use of recycled water obligated under the general rule, and determine the reasons for said persons, firms, or corporations for failing to take recycled water, after being offered the opportunity.

SECTION 304 – PROCEDURES FOR INSTITUTING MANDATORY SERVICE

The IEUA* Board of Directors may initiate proceedings to institute mandatory service to a person, firm or corporation as follows:

- (A) The potential recycled water customer shall be notified in writing why the General Manager has determined it is feasible to convert to recycled water service; initiating a 30-day period for filing protests or requesting a waiver.
- (B) After the 30-day protests and waivers period has expired, findings shall be made, and the General Manager shall request of the Agency's Board to conduct a hearing to find the conditions for mandatory use exist.

SECTION 305 – SURCHARGE FOR FAILURE TO USE RECYCLED WATER

In the event the potential recycled water customer (property owner or the occupant) fails, neglects, or refuses to convert to the use of recycled water, such potential customer shall pay to the IEUA* a surcharge on the amount of potable water used on the site in an amount of fifty percent (50%) of IEUA's highest wholesale rate for imported water.

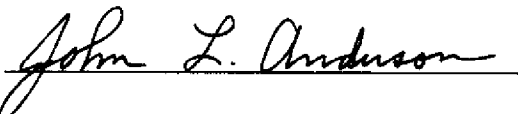
PART IV - FUNDING AND TECHNICAL ASSISTANCE

- (A) IEUA will assist recycled water customers with the preparation of the customers Preliminary Engineering Report and permits for use of recycled water.
- (B) IEUA will offer to finance a loan to the recycled water customer(s) for retrofitting the recycled water facilities at the customer's site at the interest rate available to IEUA.
- (C) Loans will be made for 10 years maximum.

PART V – EFFECTIVE DATE


Upon adoption, the effective date of all provisions of this Ordinance No. 75, shall be May 15, 2002.

ADOPTED this 15th day of May , 2002.



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

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. 75, was adopted at
an adjourned regular Board Meeting on May 15, 2002, of said Agency by the
following vote:

AYES: *Anderson, Catlin, Koopman*

NOES: *0*

ABSTAIN: *0*

ABSENT: *Dunbar, Tropel*

Anne Dunihue

Secretary

*A Municipal Water District

**NOTICE OF PUBLIC HEARING AND INTENT TO
ADOPT ORDINANCE NO. 75, ESTABLISHING
INCENTIVES AND ENCOURAGING THE USE OF
RECYCLED WATER FROM THE REGIONAL
RECYCLED WATER DISTRIBUTION SYSTEM**

NOTICE IS HEREBY GIVEN THAT the Board of Directors of Inland Empire Utilities Agency, a Municipal Water District, has indicated its intent to adopt Ordinance No. 75, establishing incentives and encouraging the use of recycled water from the regional recycled water distribution system.

The Board will consider the adoption of this ordinance at its Board Meeting on Wednesday, May 15, 2002, at 9:00 a.m., at the Office of the Agency, 9400 Cherry Avenue, Building A, Fontana, CA 92335.

NOTICE IS FURTHER GIVEN that said public hearing will be for the purpose of hearing any and all public testimony on the above-stated issue. All interested persons are invited to attend the public hearing and provide comments regarding the proposed ordinance. Oral statements will be heard but, for the accuracy of the record, all important testimony should be submitted in writing.

NOTICE IS FURTHER GIVEN that the proposed ordinance is available for public review in the Office of the Secretary of the Agency. For additional information, please contact the Agency's Executive Manager of Engineering and Planning, Tom Love at (909) 357-0241, Extension 410.

Publish: **March 29, April 30 and May 8, 2002.**

**INLAND EMPIRE UTILITIES AGENCY
A MUNICIPAL WATER DISTRICT
ORDINANCE NO. 75**

An ordinance of the Board of Directors of Inland Empire Utilities Agency, a Municipal Water District, establishing incentives and encouraging the use of recycled water from the Regional Recycled Water Distribution System was approved at the May 15, 2002 Board of Directors Meeting. For additional information, please contact Patti Dickenson at (909) 357-0241, Ext. 211.

Published: MAY 22, 2002