

CASITAS MUNICIPAL WATER DISTRICT  
CONSERVATION PENALTY APPEALS PANEL

Agenda

Directors Bergen, Brennan, Hajas

**December 7, 2022 – 5:00 P.M.**

District Office  
1055 Ventura Ave.  
Oak View, CA 93022

The meeting will also be held via teleconference.

Join Zoom Meeting

<https://us06web.zoom.us/j/86888951638?pwd=MEs3MTI1RmRpZGQxemFXcWlxdTBaQT09>

Meeting ID: 868 8895 1638 Passcode: 816983

To join via telephone please call (877) 853-5247 or (888) 788-0099

Enter Meeting ID: 868 8895 1638# Passcode 816983#

1. Roll Call
2. Public Comments
3. Appeal of Bamboo Creek Spa of a Conservation Penalty
4. Appeal of Combs of a Conservation Penalty
5. Appeal of Friend of a Conservation Penalty
6. Appeal of Hall of a Conservation Penalty
7. Appeal of Lashly of a Conservation Penalty
8. Appeal of Ojai Valley Baptist Church of a Conservation Penalty
9. Appeal of Palato of a Conservation Penalty
10. Appeal of Rakieten/Adamson of a Conservation Penalty
11. Appeal of Robledo of a Conservation Penalty
12. Appeal of Seltzer of a Conservation Penalty
13. Appeal of Sher of a Conservation Penalty
14. Appeal of Springer of a Conservation Penalty
15. Appeal of Baskin of a Conservation Penalty
16. Appeal of Kelly of a Conservation Penalty
17. Appeal of Stanley Park Farms of a Conservation Penalty
18. Appeal of Van Wingerden of a Conservation Penalty
19. Appeal of Berkow of a Conservation Penalty
20. Appeal of Bright of a Conservation Penalty
21. Appeal of Mac Brown of a Conservation Penalty

Right to be heard: Members of the public have a right to address the Board directly on any item of interest to the public which is within the subject matter jurisdiction of the Board. The request to be heard should be made immediately before the Board's consideration of the item. No action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of §54954.2 of the Government Code. If you require special accommodations for attendance at or participation in this meeting, please notify our office in advance (805) 649-2251 ext. 113. (Govt. Code Section 65954.1 and 54954.2(a)). Please be advised that members of the Board of Directors of Casitas who are not members of this committee may attend the meeting referred to above only in the capacity of observers, and may not otherwise take part in the meeting. (Govt. Code Sections 54952.2(c)(6))

achieve the demand reduction goal may be selected from a menu of options as provided in Table 6, or should water supply conditions become worse than anticipated the Casitas Board may adopt more stringent requirements as deemed necessary.

### **5.5 Customer Notification.**

The customers of each and every classification shall be notified in a timely and appropriate manner of any and all actions to declare and implement Demand Reduction Stage. The methods of communication to the customer shall be through direct mailings, public meetings, and billing information that provides the customer the comparison of water use with allocation.

### **5.6 Water Rates and Conservation Penalty.**

- a. The Casitas Board of Directors shall annually consider the setting or adjustment of water rates that reflect the cost of water service, consistent with State law.
  1. Casitas has implemented a tiered inclining rate structure for the Residential and Multi-family Residential classifications that represents the proportional cost of service that is attributable to the parcel that is served water.
- b. The Casitas Board of Directors shall annually set the Conservation Penalty for each classification that will be applied to each individual customer billing for each unit of water that is in excess of the customer's allocation, or the adjusted allocation pursuant to a change in Stage. The Conservation Penalty is imposed to curtail the potential for adverse effects of excessive water consumption.
- c. Upon determination of a change in the Demand Reduction Stage, or at such time the Board deems that the customer response does not appear to attain the desired demand reduction goals, the Board may consider the modification of the Conservation Penalty.
- d. Revenues recovered from the Conservation Penalty will supplement Casitas' water conservation costs, provide revenue for water shortage related projects, and cover costs associated with implementing changes to the WEAP as directed by the Board.

### **5.7 Appeals for Exception to Staged Adjustments of Allocation or Conservation Penalty Assessment.**

- a. A Casitas customer may file an appeal for:
  1. An Exception to Staged Adjustment of Allocation, as provided in Section 5.4 above;  
or
  2. The assessment of a Conservation Penalty, as provided in Section 5.6 aboveby submitting a written appeal, on a form provided by Casitas, directly to the General Manager or his/her designee.
- b. The following paragraphs provide the criteria or reasons for an appeal for an Exception to Staged Adjustments of Allocation and an appeal for an Exception to Staged Adjustments of Allocation may be granted for one or more of the following reasons:

1. The staged adjustment would cause a condition affecting the health, sanitation, fire protection, or safety of the customer or the public;
  2. Strict application of the water allocation adjustment provisions imposes a severe or undue hardship on a particular business, or renders it infeasible for a business or class of business to remain in operation;
  3. The customer is a hospital or health care facility using industry best management practices;
  4. The business has already implemented environmental sustainability measures and water conservation measures reducing water consumption to the maximum extent possible.
- c. The customer must support their reason for an appeal for an Exception to Staged Adjustments of Allocation with supporting documentation or substantial evidence demonstrating the need for an exception. A failure to provide supporting documentation or evidence shall result in a denial of the appeal.
- d. The appeal for an Exception to Staged Adjustments of Allocation will be first reviewed, approved or denied, by the General Manager or his/her designee. The decision of the General Manager or his/her designee shall be reported to the customer/appellant in written form. If the customer is not satisfied with the General Manager or his/her designee's decision, the customer/appellant must request, within 10 days of the date of the General Manager or his/her designee's decision, that the appeal be placed on the agenda of the Casitas Board of Directors for their review and determination based on the criteria set forth in Section 5.7(b)(1)-(4). The determination by the Casitas Board of Directors shall be final.
- e. The following paragraphs provide the criteria and process for an appeal from a Conservation Penalty:
1. An appeal for relief of a Conservation Penalty may only be considered when a natural disaster such as a wildfire, earthquake, flood or landslide or other naturally occurring phenomenon which directly causes a leakage or leakage event.
  2. The customer must file their appeal to the Casitas Municipal Water District Board of Directors' Appeals Panel.<sup>1</sup> A request for review and an evidentiary hearing must be made in writing and submitted to the District within thirty (30) days of date the Casitas bill with the Conservation Penalty was issued by the District. Upon receipt by the District, a review and evidentiary hearing will be placed on the next agenda of the Appeals Panel.
  3. The appeal of a Conservation Penalty must explain why the leakage or leakage event was caused by a naturally occurring event such as wildfire, earthquake, flood or landslide.
  4. The customer/appellant must support their reason for an appeal from a Conservation Penalty with supporting documentation or substantial evidence demonstrating the circumstances for the appeal. A failure to provide supporting documentation or evidence shall result in a denial of the appeal.

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<sup>1</sup> The Appeals Panel is a Board-appointed committee composed of three (3) Board members who are authorized to conduct evidentiary hearings, make findings and render decisions in accordance with this section of the Water Efficiency and Allocation Program. This is in accordance with California Water Code Sections 71300, 71301 and 71305.

5. The General Manager or his/her designee will review the appeal and the documentation or evidence provided by the customer supporting the appeal. The General Manager or his/her designee may request additional information from the customer. Following a review of the appeal, the General Manager shall make a recommendation to the Appeals Panel. A copy of the General Manager's recommendation will be provided to the customer/appellant.
6. If a review and evidentiary appeal hearing is properly requested before the Appeals Panel, the customer/appellant shall have an opportunity to state their case and present evidence supporting their appeal. Following the customer's presentation of the grounds for appeal, the Appeals Panel shall review the General Manager's recommendation on the conservation penalty appeal and determine whether to grant the appeal in full, apportion the penalty, or deny the appeal based on the following:
  - A. The documentation and/or evidence provided by the customer in their initial written appeal;
  - B. The basis of the General Manager's recommendation as provided in the General Manager's written explanation of the grounds for the recommendation; and
  - C. Any additional circumstances the Appeals Panel determines to be relevant during the evidentiary hearing.
7. In order to approve an appeal of a Conservation Penalty, the Appeals Panel must make the following findings:
  - A. The customer provided documentation or substantial evidence that the Conservation Penalty could not be avoided by circumstances within the customer's reasonable control;
  - B. The General Manager's written recommendation is valid or invalid in light of the customer's documentation or evidence provided; and
  - C. The reason for the appeal is not to accommodate for leakage or a leakage event within the control of the customer.
8. If the appeal for a Conservation Penalty is approved by the Appeals Panel, the Appeal Panel shall determine if the Conservation Penalty is denied in whole or in part.
9. Following the review and the evidentiary hearing, the Appeals Panel shall provide a written determination with findings to the customer within thirty (30) days of the hearing either approving, denying or apportioning the appeal. The Appeals Panel's determination is final and binding on the customer.

## **SECTION 6: EXPORT OF CASITAS WATER**

Water Code Section 71611 authorizes Casitas to sell water under its control for use only within the jurisdictional boundaries of the Casitas Municipal Water District. The unauthorized export and use of Casitas water beyond the Casitas district boundaries can have significant negative impacts on the Casitas water supply reliability, and therefore shall be prohibited unless specifically authorized in writing by the Casitas Board of Directors. All customers receiving Casitas water into water

CASITAS MUNICIPAL WATER DISTRICT

RESOLUTION 2022-23

A RESOLUTION OF THE CASITAS MUNICIPAL WATER DISTRICT ADOPTING A  
REVISED BILL RELIEF PROGRAM

WHEREAS, provisions of the Rates and Regulations for Water Service, adopted by the Casitas Municipal Water District Board of Directors on December 19, 2009 provided for a Leak Adjustment Program;

WHEREAS, on April 11, 2015, the District declared a Stage 2 condition existed due to declining Lake Casitas water supplies and implemented measures to ensure efficient use of water,

WHEREAS, on May 13, 2015, the District suspended the Leak Adjustment Program and began implementation of a Conservation Penalty and Appeals process in accordance with the Water Efficiency and Allocation Program at the time and as amended;

WHEREAS, the District desires to streamline the process for reviewing customer requests for bill relief related to extraordinary water use through a revised Bill Relief Program;

WHEREAS, the purpose of the Bill Relief Program is to relieve eligible customers of extraordinary water charges when the circumstances giving rise to the extraordinary water charges were caused by circumstances beyond the customer's reasonable control;

WHEREAS, customers are expected to use water efficiently and are responsible for timely action and accountability in resolving leak issues;

WHEREAS, in order to receive financial relief from the District, resolving the leak issue is a conservation measure that preserves available water supply for all customers.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Casitas Municipal Water District as follows:

The Leak Adjustment program described in Section 11.1.3 of the 2009 Rates and Regulations for Water Service, and the Conservation Penalty Appeals process described in Section 5.7.e of the 2021 Water Efficiency and Allocation Program (WEAP), shall be rescinded and replaced with the Bill Relief Program described herein.

## BILL RELIEF PROGRAM

1. Purpose of Bill Relief: The District offers this program to its customers to relieve eligible customers of extraordinary water charges when the circumstances giving rise to the extraordinary water charges were caused by circumstances beyond the customer's reasonable control.
2. Types of Bill Relief: A District customer may only seek the following forms of bill relief:
  - 2.1. A bill adjustment for leak relief relating to volumetric water rates
  - 2.2. A bill adjustment relating to WEAP Conservation Penalty
3. Eligibility for Bill Relief:
  - 3.1. Leak Relief Adjustment: A leak relief adjustment shall only be available to a customer who satisfies all the following conditions:
    - 3.1.1. Applications for relief submitted after the effective date of this Resolution.
    - 3.1.2. The customer is receiving Residential or Ag Domestic water service;
    - 3.1.3. For Ag Domestic customers, a maximum of 50 HCF per month is eligible for relief (relating to Tier 1 and 2 water rates intended for domestic use)
    - 3.1.4. The water usage caused by the leak is twice the average of the customer's three (3) year historical usage;
    - 3.1.5. The circumstances giving rise to the customer's request for relief were beyond the customer's reasonable control and not due to a negligent failure to properly maintain and/or replace in a timely manner any leaking water fixtures, water pipes, or other water infrastructure on the customer's property;
    - 3.1.6. The customer has not received another form of bill adjustment for Leak Relief or Conservation Penalty Relief from the District in the past five (5) years.
    - 3.1.7. The request for relief is only for volumetric water rates; and
    - 3.1.8. The customer submitted a timely request for relief per Section 4.
    - 3.1.9. If the leak relief request occurs when mandatory conservation measures are being implemented under the WEAP, the customer must have a reasonable record of staying within their annual allocation prior to the extraordinary use occurring.
  - 3.2. WEAP Conservation Penalty Relief: Relief from a Conservation Penalty shall only be available to a customer who satisfies all the following conditions:
    - 3.2.1. Applications for relief submitted after the effective date of this Resolution, unless a customer previously submitted an application and a final determination by the District is still pending as of the effective date of this Resolution.
    - 3.2.2. All customer classes are eligible for Conservation Penalty relief.
    - 3.2.3. The customer has not received another form of bill adjustment for Leak Relief or Conservation Penalty Relief from the District in the past five (5) years.
    - 3.2.4. The circumstances giving rise to the customer's request for relief were beyond the customer's reasonable control and not due to a negligent failure to properly

maintain and/or replace in a timely manner any leaking water fixtures, water pipes, or other water infrastructure on the customer's property;

3.2.5. The customer submitted a timely request for relief per Section 4.

3.2.6. If the leak relief request occurs when mandatory conservation measures are being implemented under the WEAP, the customer must have a reasonable record of staying within their annual allocation prior to the extraordinary use occurring.

4. Process to Apply for Bill Relief: To apply for bill relief, the applicant shall:

4.1. Submit a request for relief, in writing on a form provided by the District, to the District's Bill Hearing Officer<sup>1</sup> within forty-five (45) days of the billing date for which the customer seeks relief. Failure to submit a request within forty-five (45) days renders a request untimely and the customer shall be ineligible for relief.

4.2. The written request for relief shall be accompanied with and supported by substantial and adequate written and photographic documentation that provides evidentiary support that the cause of the event giving rise to extraordinary water charges were caused by circumstances beyond the customer's reasonable control and have been promptly repaired. Failure to include any evidentiary support with a written request for relief will result in denial of the request.

4.2.1. Examples of Adequate Supporting Evidence

4.2.1.1. Evidence that a leak was discovered.

4.2.1.2. Evidence of a naturally occurring phenomenon such as an earthquake, wildfire, landslide, or vegetative growth which was likely to have caused the leak.

4.2.1.3. Evidence that the leak was timely repaired.

4.2.1.4. Photographs of the leak and of the repair.

4.2.1.5. Repair receipts from a plumber.

4.2.1.6. Receipts for materials used in the repair.

4.2.1.7. Any other evidence the leak has been repaired.

4.3. The customer shall remain current on payment of water bills. All fixed and volumetric charges shall be paid in order to avoid late fees. Upon District approval of a Leak Relief Adjustment, eligible volumetric charges will be provided as a credit back to the customer. Only the WEAP Conservation Penalties may be put into abeyance until a final determination is made.

5. District Review.

The Bill Hearing Officer will review the request and the documentation or evidence provided by the customer supporting the appeal. The Bill Hearing Officer may request additional information from the customer. Following a review of the request, the Bill Hearing Officer shall make a recommendation and provide to it the General Manager.

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<sup>1</sup> As designated consistent with the Rates and Regulations.

5.1. Requests for bill relief for a total amount less than or equal to \$1,500.00 (combined total relief relating to Leak Relief Adjustments and WEAP Conservation Penalties) shall be granted if the General Manager finds all of the following:

- 5.1.1. The customer is eligible for the type of relief requested;
- 5.1.2. The customer's claim for relief is due to circumstances beyond the customer's reasonable control;
- 5.1.3. The customer's claim for relief is supported with substantial and adequate evidence.
- 5.1.4. The District has verified that a repair has been made and water use has returned to normal.

5.2. If a request for bill relief for an amount equal or less than \$1,500.00 is denied by the General Manager, the customer may request an appeal of the decision with the Casitas Board of Directors' Appeals Panel per the process described in Section 5.3.

5.3. If a request for bill relief is more than \$1,500.00, the following process shall apply:

- 5.3.1. The General Manager shall schedule an evidentiary appeal hearing before the Board of Directors' Appeals Panel.
- 5.3.2. The General Manager shall make a recommendation to the Appeals Panel. A copy of the General Manager's recommendation will be provided to the customer/appellant.
- 5.3.3. The customer /appellant shall have an opportunity to state their case and present evidence supporting their appeal.
- 5.3.4. Following the customer's presentation of the grounds for appeal, the Appeals Panel shall review the General Manager's recommendation and determine whether to grant the appeal in full, apportion the penalty or deny the appeal.

5.4 This process will remain in effect until water conditions improve and Conservation Penalties are no longer being assessed by the District. At such time, the Board of Directors will assume the duties of the Appeals Panel related to the Leak Relief Adjustment Program.

## 6. Bill Relief.

If Bill Relief is granted, the following calculations will be used for bill adjustment:

- 6.1.1. For a Leak Relief Adjustment relating to volumetric water rates, the adjustment will be calculated as follows:

The cost of the leak shall be divided by two, equally splitting the District's calculation of the water cost that is eligible for leak adjustment between the customer and the District. The cost of the leak shall be determined based on either:

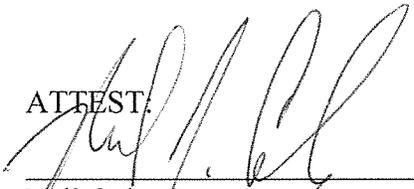
- 6.1.1.1. The difference in the bill based on the quantity of water used over the leak period (maximum of 2 months) less the bill based on average water use over the same period in 3 prior years (provided there is prior water use history available for the customer seeking bill relief), or
- 6.1.1.2. The difference in the bill based on the total amount of water used at a cost per HCF of the lowest unit rate for residential customers.

6.1.2. For Conservation Penalties, the District may provide full or partial relief of penalties based on review of the claim.

This resolution shall become effective upon its adoption.

ADOPTED this 22<sup>nd</sup> day of June 2022.

ATTEST:

  
\_\_\_\_\_  
Neil Cole, Secretary  
Casitas Municipal Water District

  
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Brian Brennan, President  
Casitas Municipal Water District