

HUMBOLDT BAY MUNICIPAL WATER DISTRICT

ORDINANCE NO. 19

AN ORDINANCE OF THE BOARD OF DIRECTORS OF HUMBOLDT BAY MUNICIPAL
WATER DISTRICT ADOPTING A REGISTRATION AND INSPECTION PROGRAM FOR
ALL WATERCRAFT AT RUTH LAKE

The Board of Directors of Humboldt Bay Municipal Water District do hereby ordain, find and determine as follows:

SECTION I. Findings:

Whereas, the Humboldt Bay Municipal Water District (“District” or “HBMWD”) owns and operates a regional water system, including Ruth Lake, the primary function of which is to provide water to municipal and industrial users in Humboldt County; and

Whereas, Ruth Lake represents a continuing, important recreational feature of Trinity County; and

Whereas, maintaining and preserving the water quality in Ruth Lake is of critical importance for HBMWD’s water supply; and

Whereas, the ability of HBMWD to fulfill its primary function and responsibility is threatened because of the real potential of the introduction of certain invasive animal species that are not native to the United States, California or to Ruth Lake and Mad River; and

Whereas, HBMWD’s responsibility requires that it take action to avoid the introduction of dreissenid mussels; and

Whereas, Quagga Mussels are currently found in California in the Colorado River aqueduct and river system, several municipal reservoirs that are supplied with Colorado River water, and in other lakes and reservoirs in southern California; and

Whereas, Zebra Mussels are currently found in central California in San Justo Reservoir; and

Whereas scientific and technical evidence has shown that once a water body is infested with Quagga or Zebra Mussels, there are few possibilities for eradicating said species, and attempts to eradicate these species are both problematic and expensive; and

Whereas, scientific and technical evidence has shown that one of the most common means of transportation of these Mussel species from one water body, lake or reservoir to another is by the species being attached to, or included with, watercraft, boat trailers, hulls, anchors, vegetation caught on vehicles or outboard motors, and by the species being carried in water found in wet wells, built-in or removable bait tanks, associated plumbing, engine cooling systems, pumps and bilges; and

Whereas, dreissenid mussel infestation could result in conditions that would reduce Ruth Lake leaseholder and private property values; and

Whereas, dreissenid mussel infestation could adversely affect fishery and sport values at Ruth Lake and Mad River; and

Whereas, dreissenid mussels may attach themselves to almost all hard surfaces, causing extreme maintenance problems for the water delivery system, including intake structures, pipes, pump stations and other infrastructure, and can result in drastic impacts to lake water quality and the aquatic environment; and

Whereas, the HBMWD, based on its research, consultation and communication with other Federal, State and local agencies is aware of the critical and imminent situation facing the District due to the proximity of actual or potential dreissenid mussel infestations at water bodies throughout California, and the fact that potentially infected and unquarantined water bodies are within a reasonable driving distance to Ruth Lake; and

Whereas this Ordinance is authorized by numerous authorities, including but not limited to, Water Code Section 71590, Water Code Section 71660, Health & Safety Code Section 117105 and the general police powers of the District; and

Whereas, the Master Lease between the County of Trinity and HBMWD dated December 31, 1964 and assigned by the County of Trinity to the Ruth Lake Community Services District on July 20, 1966 provides that the lessee thereof:

“[S]hall not nor shall any of them in any way interfere with Lessor’s lake and dam, the water therein, or the beneficial enjoyment and use thereof or the quantity thereof. The parties hereto recognize that the waters impounded in said lake are intended for both human and industrial consumption and that every effort must be taken and maintained in order to preserve the purity and quantity thereof” and

Whereas, the Sublease entered into between the Ruth Lake Community Services District ("RLCSD") and its sublessees provides that:

"Subleasee acknowledges that Ruth Lake is an artificial impoundment of water created primarily for municipal and industrial purposes and that any recreational use of the water is subordinate to such uses" and

Whereas, in compliance with Fish & Game Code Section 2302 (AB 2065), the HBMWD and RLCSD jointly formulated a "Prevention Plan for Quagga and Zebra Mussels at Ruth Lake" ("Prevention Plan"). The Prevention Plan was approved by the RLCSD on January 8, 2009 and by the HBMWD on January 15, 2009; and

Whereas, the HBMWD hereby restates and incorporates by reference the entire Prevention Plan as though stated in full herein, and as it may be amended from time to time.

SECTION II. Definitions.

For purposes of this Ordinance, the following words and phrases shall have the following meanings:

A. "All other watercraft" means the same as Category 2 Watercraft as defined in the Prevention Plan.

B. "Inspection Procedures" means the program of registration and inspection required by this Ordinance to ensure that all Watercraft launching onto Ruth Lake are in compliance with this Ordinance and the Prevention Plan.

C. "Inspector" means an individual who has received the necessary training approved by the State Department of Fish and Game or other agency to conduct inspections of Watercraft for the purpose of determining whether said vessels are in compliance with this Ordinance and the Prevention Plan.

D. "Launch Site" or "Launch Sites" shall be those locations approved for the Launch of Watercraft in this Ordinance or the Prevention Plan.

E. "Live bait" means any fish, or other organisms used in conjunction with fishing.

F. "Registration Sticker" means the sticker issued by an Inspector evidencing the fact that the vessel to which the sticker is affixed has satisfied the Inspection Procedures.

G. "Sworn Affidavit" or "Affidavit" means any document submitted by any person

signed under penalty of perjury attesting to the truth of the statements contained therein.

H. "Watercraft" means any boat, trailer, kayak, raft, jet ski, float plane, or other device capable of being launched onto Ruth Lake. "Watercraft" includes all motorized and non-motorized Watercraft.

I. "Watercraft Resident to Ruth Lake" means the same as Category 1 Watercraft as defined in the Prevention Plan.

SECTION III. Applicability.

This Ordinance shall be applicable to any Watercraft intending to launch onto Ruth Lake.

SECTION IV. Registration Stickers.

A. Each Watercraft must be affixed with a Registration Sticker issued by an Inspector showing compliance with the Inspection Procedures prior to launching that Watercraft onto Ruth Lake.

B. Each Registration Sticker shall be valid for the time period and conditions as set forth in the Prevention Plan.

SECTION V. Inspection and Registration.

A. Inspection Procedures are required on all Watercraft to be launched onto Ruth Lake, except for :

1. Watercraft approved in Category 1 which have been issued a Yellow Inspection Sticker for the current year, and
2. Watercraft in Category 2 which previously passed Inspection Procedures and have been issued a Red Inspection Sticker for the current year and have either (i) an intact tamper-proof band issued by an Inspector which ties the Watercraft to the trailer, or (ii) a valid duration pass issued by an Inspector.

B. Owners of Watercraft Resident to Ruth Lake (Category 1) as defined in the Prevention Plan shall register their Watercraft and submit a sworn affidavit in a form to be provided by the Inspector. Only Category 1 Watercraft that exhibit a valid Registration Sticker shall be allowed to launch onto Ruth Lake. In the event of an occurrence necessitating Inspection

Procedures as set forth in the Prevention Plan, that Watercraft then shall be subject to the Inspection Procedures as set forth in the Prevention Plan.

C. Owners of all Other Watercraft (Category 2) shall submit a sworn affidavit in a form to be provided by the Inspector and their Watercraft shall undergo an inspection by the Inspector. Only Watercraft that pass the Inspection Procedures and exhibit a valid Registration Sticker shall be allowed to launch onto Ruth Lake.

D. Any Watercraft owner/operator who desires to participate in the electronic card key entry system shall submit an additional sworn affidavit and pay the fee to be set by RLCSD

E. A Watercraft owner or operator may refuse to consent to the Inspection Procedures. If the Watercraft owner or operator refuses to consent to Inspection Procedures, or refuses to comply with a request of an Inspector, that Watercraft shall not be allowed to launch onto Ruth Lake and shall be in violation of this Ordinance if he/she should nonetheless attempt to do so.

F. Said Inspection Procedures shall consist of, among other items, a verification by the Inspector that the Watercraft is clean, drained and dry and a thorough search of the exterior and interior of the Watercraft, including but not limited to bilge pumps, motors, live wells, bait wells, ballast tanks, bladders and all areas are free of standing water.

G. If for any reason in the judgment of the Inspector, the Watercraft does not pass Inspection Procedures, that Watercraft shall not be allowed on the waters of Ruth Lake. The Watercraft will be ordered into quarantine by the Inspector for the period of time specified in the Prevention Plan.

H. If, in the judgment of the Inspector, a Watercraft passes Inspection Procedures, the Inspector shall affix a Registration Sticker on the Watercraft which signifies that the Watercraft may be launched onto Ruth Lake in accordance with the provisions of this Ordinance and the Prevention Plan.

I. In the event a Watercraft with a Yellow Registration Sticker or a Red Registration Sticker wishes to leave the Ruth Lake area it shall be reinspected upon arrival unless it has an intact tamperproof band connecting the Watercraft to the trailer.

SECTION VI. Launch Sites.

A. Motorized Watercraft shall not be permitted to launch at Hobart Creek

Campground and Hetton Cove, or at any other location at Ruth Lake, except as set forth below.

B. Motorized Watercraft displaying valid Registration Stickers shall be allowed to launch only at three approved locations. These locations are:

1. Old Ruth Day-Use Area (Category 1 only, with a valid Yellow Registration Sticker).
2. Ruth Rec Campground (All valid stickers, with a card key).
3. RLCSD Marina (All valid stickers, with a card key).

C. Launch of motorized Watercraft at any other location shall be unlawful and a violation of this Ordinance and the Prevention Plan.

D. Non-motorized Watercraft may launch at any location if displaying a valid Registration Sticker, and if required by the Prevention Plan, a duration pass.

SECTION VII. Fees.

Fees for all official activities covered by this Ordinance and the Prevention Plan shall be as established from time to time by RLCSD.

SECTION VIII. Live Bait.

Disposing of Live Bait into Ruth Lake is prohibited. It shall be unlawful to dispose of any live bait and/or any liquid containing live bait or any liquid which previously contained live bait into Ruth Lake.

SECTION IX. Penalties.

A. Any person violating any provision of this Ordinance shall be guilty of an infraction or misdemeanor as hereinafter specified. Such individual shall be deemed guilty of a separate offense for each launch in a water body into Ruth Lake.

B. Any individual convicted of a violation of this Ordinance shall be:

1. Guilty of an infraction and punished by a fine of one hundred dollars (\$100.00) for the first offense.
2. Guilty of an infraction and punished by a fine of not less than two hundred dollars (\$200.00) for the second offense;
3. The third and subsequent offenses shall constitute a misdemeanor and

shall be punishable by a fine of not less than five hundred dollars (\$500.00) but not to exceed one thousand dollars (\$1,000.00) and/or up to six months in the county jail or both.

C. Notwithstanding subparagraphs 1 and 2 above, the first or second offense may be charged and prosecuted as misdemeanor.

D. Notwithstanding subparagraphs 1 and 2 above, the following offenses are considered to be egregious and may be punished as a misdemeanor and/or separately subject the offender to permanently losing the privilege of coming onto HBMWD property at Ruth Lake upon the first offense:

1. Giving out any combination or key to any unauthorized person at Old Ruth Day-Use area.
2. Moving or breaching any barrier without authorization.
3. Giving out any card key/duration pass to any unauthorized person.
4. Avoiding Inspection Procedures by, among other things, launching after hours when no Inspector is present.
5. Submitting a false, incomplete or misleading statement on an Affidavit.
6. Making a false, incomplete or misleading statement to any Inspector.
7. Failing to leave the property of HBMWD when ordered to do so by an Inspector or law enforcement officer.

E Any person may be denied access to Ruth Lake for such time and under such conditions as determined by the General Manager of HBMWD. Any such person may appeal this determination by appeal to the Board of Directors of HBMWD at the next available regularly scheduled public Board meeting.

F. A Watercraft unlawfully launched into Ruth Lake may be subject to impound if, pursuant to a misdemeanor arrest for violation of this Ordinance, an Inspector or law enforcement officer determines that circumstances necessitate law enforcement custody of the Watercraft.

G. Payment of any fine or penalty herein shall not relieve any individual from the responsibility of correcting the violations as found by the Inspector or law enforcement officer.

H. Any person found not in compliance with this Ordinance is subject to citation, immediately shall be ordered off the property of the HBMWD, and shall be subject to any other

legal action as deemed necessary by the HBMWD.

SECTION X. Public Nuisance Declaration.

Any violation of this Ordinance is hereby declared to be unlawful and a public nuisance and may be abated by any law enforcement personnel or Inspector or any other person authorized by the Humboldt Bay Municipal Water District, irrespective of any other remedy provided in this Ordinance.

SECTION XI. California Environmental Quality Act Compliance.

A. This Ordinance is not a “project” because the California Environmental Quality Act (CEQA) defines a project as “an activity which may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment” (California Public Resources Code Section 21065); and

B. Even if this Ordinance is determined to be a “project” this Ordinance would be categorically exempt from CEQA under CEQA Guidelines Section 15307 as a Class 7 Categorical Exemption which “consists of actions taken by regulatory agencies as authorized by State law or local ordinance to assure the maintenance, restoration or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment,” and a Class 8 Categorical Exemption, CEQA Guidelines Section 15308, which exempts “actions taken by regulatory agencies, as authorized by State or local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment.”

SECTION XII: Effective Date:

This Ordinance shall take effect on the 12th of July, 2009.

PASSED AND ADOPTED THIS 11th day of June, 2009, by the following vote:

Director Sopoci-Belknap voted: Aye

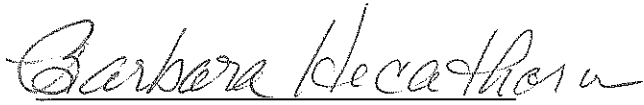
Director Rupp voted: Aye

Director Laird voted: Aye

Director Hecathorn voted: Aye

Director Prucha voted: Aye

ATTEST:



Secretary/Treasurer, HBMWD