

2010-08-10 Resolution Concerning Water Delivered by MMWC Truck

In 1973, Mountain Mutual Water Company (MMWC) was formed to acquire, operate, maintain, and improve a potable water system to serve Cripple Creek Mountain Estates (CCME) and other such areas as the directors may determine. Articles of Incorporation, Art. 4. Most of the distribution system was constructed in the 1970s, using 3"-diameter Schedule 40 PVC pipe.

The extremely cold winters, age, and condition of MMWC's distribution system sometimes results in freezing line conditions and leaks. The age, topology, gravity-feed design, branch architecture, limited capacity and pressure, and other conditions of MMWC's distribution system require that water be alternately turned on or shut off for short intervals of time to various sections of the subdivision.

To accommodate temporary shut-offs in the delivery system, MMWC has long required that members install concrete cisterns with a minimum capacity of 1500 gallons and MMWC-approved plans. When a MMWC water main freezes, MMWC has long accommodated the reasonable needs of members by delivering water to members' cisterns by truck.

In recent years, there have been numerous occasions in which customers have demanded excessive amounts of water on an excessively frequent basis. There have been occasions, for example, when MMWC has filled a cistern, and then the cistern is depleted in the span of just a few hours. Sometimes, this is the result of a cistern leak or a leak somewhere else in the resident's water delivery system. Other times, this is simply the result of excessive water use. Also, a disproportionate number of these incidents arise from homes in CCME that have been converted into vacation rentals.¹

MMWC has a very small budget and a very limited staff – including only two full time field employees. Also, it takes approximately 10-15 minutes to fill MMWC's water tank truck, approximately 30 minutes to fill a cistern, and anywhere from 10-30 minutes round trip to drive the truck to and from the residence. In the past several winters, freezing lines have resulted in MMWC delivering water by truck to dozens of residents' cisterns. Multiplied by multiple residents, delivering water by truck takes up a significant portion of MMWC's field staff's time.

Notwithstanding these limitations, MMWC has striven to serve the needs of customers when water from a water main is interrupted. This includes alternately keeping its field employees on call over the weekend to deliver emergency tank-loads of water to members.

¹ Such conversions are in apparent violation of CCME Covenants, Article II, § 2.1(a).

MMWC customers are encouraged to be flexible and considerate of MMWC's staff, and realize that it may take until the next day before water can be delivered.

Customers are also strongly encouraged to shut the power off to their cistern pump until the cistern can be filled. There have been occasions where a customer's water pump burns out when sucking dry air because it lacks a mechanism to automatically shut off the pump when the water level in the cistern becomes too low. Customers are reminded that any equipment failure – including a pump failure – on their side of a connection to the water main is the customer's responsibility.

In the past, MMWC has delivered water by truck on numerous occasions where an interrupted water supply is the result of a frozen service line on the customer's side of the connection. However, the cistern and the water service lines inside and outside of a residence – all the way to the connection with the main water line in the street – are the responsibility of the member. MMWC is not obligated to deliver water by truck to members' cisterns under those circumstances.

Whatever the cause, such incidents put excessive and unreasonable demands on MMWC's water, staff and other resources. These demands also detract MMWC's scarce resources away from critical infrastructure maintenance and improvement projects.

There is a need for a policy that articulates reasonable limits on the expectations that customers have of MMWC with respect to water truck delivery when circumstances interrupt, or require interruption of, continuous distribution of water to their residences.²

It is not reasonable to expect MMWC to provide an unlimited amount of water to a residence. The CCME covenants restrict lots in the subdivision to "occupancy by a single family and for private use only." CCME Covenants, Article II, § 2.1(a). Consistent with the community's planned development and covenants, MMWC's water system was planned and constructed to provide potable water for *conventional* single-family residential, domestic household use.

The original Water Service Plan for CCME, which was prepared on Jan. 31, 1970, estimated a maximum water usage of 60 gallons/day/person, or 1260 gallons/week for a typical, 3-person household. The website www.dringtap.org states that average daily per capita water use is 69.3 gallons, which translates to 1455 gallons/month for a 3-person

² MMWC's by-laws authorize the directors, in times of scarcity, to adopt water use conservation measures in appropriate circumstances, "including the curtailing of water use by members." MMWC By-Laws, at Art. VI § 1.

household.³ This statistic is averaged over a mostly urban U.S. population and areas where water is plentiful, taken for granted, and conservation is under-stressed.

Given the arid climate and the limited resources of MMWC, customers are encouraged to be resourceful and conservative with water, especially when water from the mains is interrupted to do freezing conditions or the like. A full regulation cistern (1500 gallon capacity) should meet the reasonable water requirements of a MMWC customer for at least a week.

Accordingly, it shall henceforth be the policy of MMWC, under the following circumstances, to charge customers a service charge⁴ each time MMWC delivers water by truck to fill⁵ a cistern:

- 1) If the customer's cistern or service line is frozen or leaking; OR
- 2) If the cause of a water outage is largely due to any failure on the customer's side of the connection to a water main; OR
- 3) If the customer requests a water delivery, and MMWC provides such a water delivery, less than 7 days after a previous filling of the cistern.⁶

Also, it is hereby resolved that no claim for damage shall be made against MMWC by reason of a water stoppage for whatever cause, including but not limited to a frozen or broken line, the shutting off or turning of water to make repairs or improvements or manage water pressure and water delivery through MMWC's water system, and loss or impairment of habitation, rent, or profit as a consequence of a water stoppage.

Passed, this 10th day of August, 2010, by the MMWC Board of Directors.

³ That site also reports that "[b]y installing more efficient water fixtures and regularly checking for leaks, households can reduce daily per capita water use by about 35% to about 45.2 gallons per day."

⁴ \$50 as of August 10, 2010. See www.mountainmutual.com for current charges.

⁵ Filling a cistern is defined as filling the cistern up the maximum level of the float, or – where a customer has one or more cisterns with a capacity in excess of 1500 gallons – delivering 1500 or more gallons to the customer's cistern(s).

⁶ MMWC customers must understand that MMWC cannot always, and is not obligated to, accommodate requests for overly frequent water deliveries.