



Adopted on May 21, 2012 – Effective on June 20, 2012

ORDINANCE NO. 150

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING ITS REGULATION OF
WATER DISTRIBUTION SYSTEM PERMIT APPLICATIONS –
NOTICING OF WELL CAPACITY TESTS (RULE 21-A)**

FINDINGS

1. The Water Peninsula Water Management District (MPWMD or District) is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has enacted, by ordinance, a set of Rules and Regulations to implement its statutory authority. District Rule 11 defines the terms used in the regulation of Water Distribution Systems (WDS). District Rules 20, 20.4, 21, 22, 40, 54-56 and 173 further define procedural and substantive rules that regulate these systems. Although these rules have been amended from time to time, the fundamental scope of these regulations was first enacted in the early 1980s. Significant refinements, changes and additions to the rules and regulations governing water distribution systems were adopted as part of Ordinance No. 96 in March 2001, Ordinance No. 105 in December, 2005. Ordinance No. 122 in August 2005, and Ordinance No. 124 in July 2006, Ordinance No. 128 in June 2007 and Ordinance No. 145 in September 2010.
3. This ordinance creates a new requirement that Neighboring Well owners be adequately notified of a pending well capacity test as part of the WDS permitting process, and be offered the opportunity to have their well monitored during the test. It requires that a reasonable effort by the applicant should be made to accommodate the Neighboring Well owners' schedules. It further requires documentation of responses by neighbors to the notification be received by the District before the well testing commences.
4. This ordinance would reorganize Rule 21-A, and add new Rules 21-A-2, 21-A-3 and 21-A-12 to require noticing of Well Capacity Tests and documentation of Neighboring Well owners' responses as described in WDS Implementation Guidelines.
5. The Water Management District Board of Directors determines that this ordinance is not considered to be a "project" under California Environmental Quality Act (CEQA) as it simply requires notification of well testing already mandated by previous ordinances, which did undergo CEQA review. .
6. This ordinance shall amend Rule 21-A of the Rules and Regulations of the Water

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Management District.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Short Title

This ordinance shall be known as the Well Capacity Test Noticing Ordinance (Rule 21-A).

Section Two: Purpose

This ordinance shall revise the permanent Rules and Regulations of the Water Management District to clarify procedures that affect applications for the creation or amendment of water distribution systems by adding a requirement for Neighboring Wells to be notified of select Well Capacity Tests to enable monitoring activities.

Section Three: Amendment of Rule 21 (Applications)

District Rule 21-A shall be amended by deleting the following provisions shown in strikethrough text (~~strikethrough~~), and by adding the following provisions set forth in italicized and bold face type (***bold face***).

RULE 21 - APPLICATIONS

A. APPLICATION FOR PERMIT TO CREATE/ESTABLISH A WATER DISTRIBUTION SYSTEM

The Applicant for a Permit to Create/Establish a Water Distribution System shall submit the following:

1. A completed written “Pre-Application Request Form”, signed by the system Owner, in the manner and form prescribed by the Implementation Guidelines. Based on the information provided on the Pre-Application Request Form, the General Manager shall determine: (a) whether the application qualifies for an exemption under Rule 20; (b) which one of four “Permit Review Levels” is required (i.e., Level 1, Level 2, Level 3 or Level 4 described in Rule 22); and (c) whether the application is for a Mobile Water Distribution System. ~~The Applicant shall next submit a completed, written Application Form, signed by the system Owner, specified for the type of system and Permit Review Level in the manner and form prescribed by the Implementation Guidelines, which encompass the remaining numbered elements of this Rule 21-A; and~~

2. ***Documentation regarding notification to Neighboring Well owners. Based on information provided by the District, the Applicant shall provide notice to Neighboring Well owners regarding the opportunity to***

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monitor Wells as specified in the Implementation Guidelines. Applicant shall make reasonable efforts to accommodate the Neighboring Well owners' schedules. Applicant shall provide documentation of notice to, and responses (if any) by, Neighboring Well owners to the District prior to the commencement of Well Capacity (Aquifer Pumping) Tests, as specified in the Implementation Guidelines.

3. *The Applicant shall next submit a completed, written Application Form, signed by the system Owner, specified for the type of system and Permit Review Level in the manner and form prescribed by the Implementation Guidelines, which encompass the remaining numbered elements of this Rule 21-A; and*
24. Environmental information as required by the California Environmental Quality Act (CEQA); and
35. Zoning and land use designations for the property; identify land use approvals which may be required for the proposed Project by the Municipal Unit in which proposed system would be located (i.e., tentative map, use permit, etc.), or by other Governmental agencies, consistent with state and local regulations that require proof of available water supply; and
46. Identify type of water right claimed to exist with each Water-Gathering Facility and each Source of Supply for the system (e.g., riparian, pre-1914, appropriative, overlying or other). Provide written verification of legal water rights applicable to type of right claimed. The verification shall include, but shall not be limited to the following forms of documentation: (a) Condition of Title Report, prepared by a title company at the Applicant's expense, and any and all supporting documentation to indicate whether legal water rights have been subordinated or severed; this documentation may include a judicial declaration of right or a full title opinion prepared by an attorney with expertise in water law; (b) information that describes the legal basis or authority for diversion and extraction of water; (c) if Groundwater is being pumped from a Groundwater basin that has not been adjudicated, a statement to that effect in addition to a copy of the current deed to the property is sufficient documentation to satisfy this requirement; or (d) if the source of the water is subject to permit requirements under the State Water Resources Control Board, a copy of the SWRCB water rights permit or domestic registration must be included; and
57. A copy of the application submitted to the Monterey County Environmental Health Department for Creation of a Water Distribution System for Multiple-Parcel Connection Systems only; and
68. The name and address of each Responsible Party; and

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79. The results of Well Capacity (Aquifer Pumping) Tests for the duration specified by the Implementation Guidelines, the cost of which tests shall be borne by the Applicant, and which shall be observed by a District representative or agent; and
810. The results of water quality tests as specified by the Implementation Guidelines, the cost of which tests shall be borne by the Applicant; and
911. An evaluation of the hydrogeologic information in the manner and form required in the Implementation Guidelines. This evaluation shall be prepared by a qualified individual or firm as determined by the District. Qualified consultants shall include a certified hydrogeologist, a licensed professional geologist with a specialty in hydrogeology, a certified engineering geologist with a specialty in hydrogeology, or a registered civil engineer with a specialty in hydrology; these specialists shall be certified in, registered or licensed by the State of California. The costs of this evaluation shall be borne by the Applicant; and
12. *Documentation of notice to, and responses by, Neighboring Well owners regarding the opportunity to monitor Wells during Well Capacity (Aquifer Pumping) Tests as referenced in Rule 21-A-2.*
130. The applicable fees prescribed in Rule 60.

Section Four: Amendment of Rule 11 (Definitions)

District Rule 11 shall be amended by deleting the following provisions shown in strikethrough text (~~strikethrough~~), and by adding the following provisions set forth in italicized and bold face type (*bold face*).

NEIGHBORING WELL – “Neighboring Well” means any Well within 1,000 feet of a Well owned by the Applicant for a Water Distribution System Permit if the Applicant’s Well is located outside of the Carmel Valley Alluvial Aquifer, or within 300 feet of the Applicant’s Well if located within the Carmel Valley Alluvial Aquifer.

Section Five: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Six: Effective Date and Sunset

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This ordinance shall be given effect at 12:01 a.m. on the 30th day following the date of its adoption on second reading.

Section Seven: Severability

If any subdivision, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion of Director Markey, and second by Director Lehman, the foregoing ordinance is adopted upon this 21st day of May, 2012 by the following vote:

AYES: Directors Markey, Lehman, Byrne, Brower, Lewis, Pendergrass and Potter
NAYS: None
ABSENT: None

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing ordinance was duly adopted on the 21st day of May, 2012.

Witness my hand and seal of the Board of Directors this __ day of _____, 2012.

David J. Stoldt, Secretary to the Board

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