



This meeting is not subject to Brown Act noticing requirements. The agenda is subject to change.

**Water Demand Committee Members:**

*Kristi Markey, Chair  
Brenda Lewis  
Jeanne Byrne*

**Alternate:**

*Andrew Clarke*

**Staff Contact**

*David J. Stoldt  
Stephanie Locke  
Arlene Tavani*

*After staff reports have been distributed, if additional documents are produced by the District and provided to the Committee regarding any item on the agenda, they will be made available at 5 Harris Court, Building G, Monterey, CA during normal business hours. In addition, such documents may be posted on the District website at [www.mpwmd.net](http://www.mpwmd.net). Documents distributed at the meeting will be made available in the same manner.*

**AGENDA**

**Water Demand Committee  
Of the Monterey Peninsula Water Management District**

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Thursday, February 12, 2015, 2 pm  
District Conference Room, 5 Harris Court, Building G, Monterey, CA

**Call to Order**

**Comments from Public**

*The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.*

**Action Items** -- Public comment will be received on all Action Items

1. Consider Adoption of January 20, 2015 Committee Meeting Minutes
2. Develop Recommendation to the Board regarding First Reading of Ordinance No. 163, Replacing Urgency Ordinance No. 159, Regarding Rebate Program Amendments and Amendments to the Expanded Water Conservation and Standby Rationing Plan (Regulation XV)
3. Develop Recommendation to the Board on First Reading of Ordinance No. 164 Establishing Water Permit Requirements for Outdoor Seating at Restaurants

**Other Items**

**Set Next Meeting Date**

**Adjournment**

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**WATER DEMAND COMMITTEE**

**ITEM: ACTION ITEM**

**1. ADOPT MINUTES OF JANUARY 20, 2015 COMMITTEE MEETING**

**Meeting Date: February 12, 2015**

**From: David J. Stoldt,  
General Manager**

**Prepared By: Arlene Tavani**

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**SUMMARY:** Attached as **Exhibit 1-A** are draft minutes of the January 20, 2015 Water Demand Committee meetings.

**RECOMMENDATION:** The Committee should adopt the minutes by motion.

**EXHIBIT**

**1-A** Draft Minutes of the January 20, 2015 Water Demand Committee Meeting



## EXHIBIT 1-A

### DRAFT MINUTES Water Demand Committee of the Monterey Peninsula Water Management District *January 20, 2015*

#### Call to Order

The meeting was called to order at 1:30 pm in the MPWMD conference room.

**Committee members present:** Kristi Markey, Chair  
Jeanne Byrne  
Brenda Lewis

**Staff members present:** David J. Stoldt, General Manager  
Stephanie Locke, Water Demand Division Manager  
Arlene Tavani, Executive Assistant

**Comments from the Public:** No comments.

#### Action Items

- 1. Consider Adoption of December 5, 2014 Committee Meeting Minutes**  
On a motion by Byrne and second of Lewis, the committee approved the December 5, 2014 minutes on a vote of 3 – 0 by Byrne, Lewis and Markey.
- 2. Develop Recommendation to the Board on Water Permit Requirements for Outdoor Seating**  
On a motion by Markey and second of Byrne, the committee voted to take no action on the draft, and requested that staff develop a list of questions and issues to discuss with representatives from the Monterey County Hospitality Association and the Coalition of Peninsula Businesses, and to then contact representatives from Save Our Carmel River and possibly the State Water Resources Control Board with a goal of developing an ordinance that seems fair to all parties. The motion was adopted unanimously on a vote of 3 – 0 by Markey, Byrne and Lewis.

Public comment. **(a) John Narigi**, Co-Chair of the Coalition of Peninsula Businesses, requested that action on the ordinance be postponed, and stated Coalition representatives could meet with Water Management District staff within the next 30 days to discuss their concerns. He asked if there was a sufficient number of staff to administer the ordinance. He noted the Coalition has provided information that shows restaurant water use is well below the water use capacity that was paid for when water permits were issued. **(b) Sam Teal**, Co-Chair of Government Affairs for the Monterey County Hospitality Association, requested a 30-day review period so that staff and the Coalition could discuss the

ordinance. That would provide time for Coalition representatives to report back to their members on the proposed rules and respond to their questions and concerns.

Committee discussion. (a) Finding 5 could be removed. (b) Could remove the reference to Rappa's Restaurant in Finding 4. (c) Disagreed with phrase "warrants a change in policy" in Finding 3. The need is to clarify the policy, this does not propose to change the rules regarding outdoor seating. The Board has never determined that outdoor seating should not be associated with water use. (d) Definition of "Exterior Restaurant Seat" should specify "no wind breaks and no heat lamps." (e) Finding 3, words "change in policy" should be replaced with "clarify administrative practice." (f) The word "mostly" in definition of Interior Restaurant Seat is not a sufficient description. (g) The State Water Resources Control Board is focused on water use on a site by site basis, but the foundation of this ordinance is that adding outdoor restaurant seats does not increase water use among restaurants collectively.

**3. Consider Ordinance No. 163 Replacing Urgency Ordinance No. 159 Regarding Rebate Program Amendments and Amendments to the Expanded Water Conservation and Standby Rationing Plan (Regulation XV)**

Locke reviewed changes to the Rebate Program proposed in the ordinance. It was noted that in Section 5.B.2, the number "27,807" will be removed and replaced with a reference to Table XV-4 that specifies "usable storage" on an annual basis. This would also be appropriate in Section Six.B.1, where the strike-out text could remain but the number "27,807" could be replaced with a reference to Table XV-4. It was also suggested that the definition of "public" facilities should be reviewed for further refinement. Staff stated that the requested amendments would be incorporated into the draft ordinance, and submitted for first reading at the February 18, 2015, Board meeting.

**Set Next Meeting Date**

The next meeting was scheduled for February 12, 2015 at 2 pm.

**Adjournment**

The meeting was adjourned at 3:05 pm.

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**EXHIBIT 2-A**

**ORDINANCE NO. 163**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AMENDING  
AMENDING REGULATION XV, EXPANDED WATER  
CONSERVATION AND STANDBY RATIONING PLAN**

**FINDINGS**

1. The Monterey Peninsula Water Management District (District or Water Management 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 general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. This ordinance is enacted to respond to present and threatened water emergencies, as provided by Section 332 of the District Law. Water emergencies addressed by this ordinance are created by legal circumstances which constrain the amount of water that is available to serve water users in the Monterey Peninsula area.
4. On July 6, 1995, the State Water Resources Control Board (SWRCB), in response to four complaints, issued Order WR No. 95-10 that found that the groundwater in the aquifer underlying and closely paralleling the Carmel River is water flowing in a subterranean stream and subject to the jurisdiction of the SWRCB.
5. SWRCB Order WR No. 95-10 also found that California American Water wells were drawing water from the subterranean stream associated with the Carmel River and had diverted an average of 10,730 acre-feet per year (AFA) without a valid basis of right.
6. SWRCB Order WR No. 95-10 directed California American Water to reduce its average historical diversions from the Carmel River by 15% in Water Year 1996 and 20% in each subsequent water year until its unlawful diversions were terminated.

7. In Water Year 1997, California American Water's diversions from the Carmel River exceeded the limit specified in SWRCB Order WR No. 95-10 and the SWRCB issued an Administrative Civil Liability Complaint against California American Water.
8. On January 28, 1999, to enable compliance with SWRCB Order WR No. 95-10, the Water Management District adopted Ordinance No. 92 that established Regulation XV, the Expanded Water Conservation and Standby Rationing Plan.
9. Since establishment of the Expanded Water Conservation and Standby Rationing Plan in 1999, California American Water has complied with the diversion limits specified in SWRCB Order WR No. 95-10 every year.
10. On January 17, 2014, the Governor of the State of California proclaimed a state of emergency due to current drought conditions and called on Californians to reduce their water usage by 20 percent.
11. The U.S. Drought Monitor has designated the territory of the Monterey Peninsula Water Management District to be currently in a condition of extreme drought (February 3, 2015).
12. The provisions of this ordinance shall preserve the health and safety of the Monterey Peninsula's water users.
13. The measures adopted in this ordinance are necessary in order to improve and protect the quantity and quality of groundwater supplies within the District, to prevent a worsening of existing conditions, and to allow time to implement a definite and long-term water supply solution.
14. Amendments to the Rebate Program to allow California Non-Profit Corporations to receive Rebates for purchase and installation of more than 20 toilets on a Site are necessary to achieve water saving retrofits that would not otherwise occur.
15. Amendments to the Rebate Program to allow the Board discretion to incentivize Lawn removal at Public facilities by offering a Rebate for removal of large irrigated areas is necessary to respond to the current drought and to increasing levels of regulatory restrictions on potable water use.
16. Amendments to the Rebate amounts and the addition of new Non-Residential Rebates will facilitate greater water savings in the MPWMD.
17. This ordinance amends the water Rationing triggers that specify movement to Stages 4-7 of Regulation XV, Expanded Water Conservation and Standby Rationing Plan. These

amendments are necessary to respond to changing conditions related to Water Supply in the Monterey Peninsula Water Resource System. The ordinance replaces specific targets in Rules 164-167 with Table XV-3 that can be amended by Resolution of the Board.

18. The following District Rules shall be amended by this ordinance: Rule 141 (Water Conservation Rebates), Rule 164 (Stage 4 Water Rationing), Rule 165 (Stage 5 Water Rationing), Rule 166 (Stage 6 Water Rationing), and Rule 167 (Stage 7 Water Rationing), and Rule 172 (Landscape Water Audits).
19. This ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, Existing Facilities, for modifications to Rule 141, as these amendments relate to replacement of existing facilities with less water intensive uses.
20. Modifications to Regulation XV are exempt from the California Environmental Quality Act (CEQA) under Water Code §10652 and CEQA Guidelines §15282 (v).

NOW THEREFORE be it ordained as follows:

## ORDINANCE

### **Section One:**            **Short Title**

This ordinance shall be known as the 2015 Rationing and Rebate Programs Amendment Ordinance of the Monterey Peninsula Water Management District.

### **Section Two:**            **Purpose**

In response to drought conditions and the need to bring about reduced water consumption on the Monterey Peninsula, this ordinance amends the Rebate Program to allow non-profit entities to receive a Rebate for installation of more than 20 Ultra High Efficiency Toilets, and gives the Board discretion to approve Rebates in excess of \$2,500 for Lawn removal at Public Sites. This ordinance also amends Regulation XV to address inconsistencies with water Rationing triggers and to establish the two day per week outdoor watering schedule.

### **Section Three:**            **Amendments to Rule 141**

Rule 141-A through 141-C shall be amended as shown below, with added language as shown in

*bold italic* type face, and deleted language shown in ~~strikeout~~ type face. The remaining provisions of Rule 141 shall remain unchanged by this ordinance.

## **RULE 141 - WATER CONSERVATION REBATES**

### **A. QUALIFYING DEVICES**

Rebates are available for purchase of the following Qualifying Devices within the boundaries of the Monterey Peninsula Water Management District:

1. High Efficiency Dishwasher;
2. High Efficiency Clothes Washer ~~for~~ *in a Residential use*;
3. Instant-Access Hot Water System;
4. High Efficiency Toilet;
5. Zero Water Consumption Urinal;
6. One or more Cisterns installed as a component of an Irrigation System. Maximum available Rebate shall be for 25,000 gallons of Cistern storage capacity on a Qualifying Property;
7. Smart Controller;
8. Soil Moisture Sensors that control the irrigation cycles of a conventional automatic Irrigation System controller or Smart Controller. Gypsum block Soil Moisture Sensors shall not be included on the list of Qualifying Devices;
9. Removal of established Lawn and replacement with low water use plants or permeable surfaces (maximum of 2,500 square-feet<sup>1</sup>);
10. High Efficiency Urinal *in a Residential use*;
11. Pint Urinal;
12. Rotating Sprinkler Nozzle;
13. Water Broom. Maximum available Rebate shall be for two Water Brooms per Qualifying Property;

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<sup>1</sup> *Lawn removal Rebate at a Public facility may exceed the square-footage limitation subject to Board approval.*

14. Commercial High Efficiency Clothes Washer *at a Residential Site* ~~designed and manufactured for Non-Residential uses;~~
15. Cooling Tower Conductivity Controller;
16. Water Efficient Ice Machine;
17. X-ray film processor recirculation system.
18. Cooling Tower Conductivity/pH Controller;
19. Dry Vacuum Pump;
20. Graywater Irrigation System;
21. High Efficiency Connectionless Food Steamer;
22. High Efficiency Commercial Dishwasher;
23. Retrofit of a medical equipment steam sterilizer that utilizes a continuous water flow with a water tempering device.
24. Ultra High Efficiency Toilet.

#### **B. REBATE AMOUNTS**

The following Rebates shall be issued by the District on a first-come, first-served basis as long as funds remain available.

At no time shall the Rebate amount exceed the price of the Qualifying Device.

1. The Rebate for *replacing a 1.6 gallon (or higher) flush toilet with* a High Efficiency Toilet shall be ~~\$200~~ **\$100** per toilet.
2. The Rebate for *a* High Efficiency Dishwasher shall be \$125.
3. The Rebate for *a* High Efficiency Clothes Washer *at a Residential Site* shall be ~~\$500~~ **\$350**.
4. The Rebate for an Instant-Access Hot Water System shall be \$200 per Qualifying Property.

5. The Rebate for an on-demand pump or point of source water heater as part of an Instant-Access Hot Water System shall be \$100 per component, to a maximum of two components per Qualifying Property.
6. The Rebate for Zero Water Consumption Urinal shall be ~~\$300~~\$250.
7. The Rebate for a Smart Controller shall be \$100 for up to four stations. An additional \$10 shall be available per station up to twenty (20) stations or the actual cost, whichever is less. The District shall maintain a list of qualifying Smart Controllers.
8. The Rebate for installation and use of one or more Soil Moisture Sensor(s) on a conventional automatic Irrigation System shall be \$25 per sensor or the actual cost, whichever is less. Gypsum block Soil Moisture Sensors shall not qualify for Rebate.
9. The Rebate for Cistern water tanks installed on Sites supplied with water from the Monterey Peninsula Water Resource System shall be \$50 per 100 gallons for the first 500 gallons and \$25 per 100 gallons of water storage capacity to a maximum storage capacity of 25,000 gallons per Qualifying Property.
10. The Rebate for Lawn removal and replacement with low water use plants or permeable surfaces shall be \$1.00 per square-foot to a maximum of 2,500 square-feet per Qualifying Property. ***Publicly owned Sites may receive a Rebate for removal of a greater area at the Board's discretion.***
11. The Rebate for a High Efficiency Urinal ***in a Residential use*** shall be \$200.
12. The Rebate for a Pint Urinal shall be ~~\$300~~\$250.
13. The Rebate for a Rotating Sprinkler Nozzle (minimum purchase and installation of ten) shall be \$4.00 each.
14. The Rebate for a Water Broom shall be \$150.
15. The Rebate for a Commercial High Efficiency Clothes Washer ***at a Residential Site*** shall be \$1,000. ~~For the purpose of this Rebate, a Multi-Family Residential Qualifying Property with a Common Laundry Room shall be considered a Non-Residential use.~~
16. The Rebate for a Cooling Tower Conductivity Controller shall be \$1,000.

17. The Rebate for a CEE Tier II Water Efficient Ice Machine shall be \$500.
18. The Rebate for an X-ray film processor recirculation system shall be \$2,500.
19. The Rebate for a Cooling Tower Conductivity/pH Controller shall be \$2,500.
20. The Rebate for Dry Vacuum Pumps shall be \$200 per 0.05 HP to a limit of 4 HP.
21. The Rebate for a High Efficiency Connectionless Food Steamer shall be \$1,500 per compartment.
22. The Rebate for a High Efficiency Commercial Dishwasher shall be:
  - a. ~~\$500~~**\$1,000** for an under counter model.
  - b. ~~\$1,000~~**\$1,500** for a single tank door type model.
  - c. ~~\$1,500~~**\$2,000** for a single tank conveyor.
  - d. ~~\$2,000~~**\$2,500** for a multi-tank conveyor.
23. The Rebate for a Graywater Irrigation System supplied by one Clothes Washer for irrigation shall be \$100.
24. The Rebate for a Graywater Irrigation System supplied by one or more Bathrooms that have a Bathtub/Shower connected to a Graywater Irrigation System shall be \$100 per Bathroom. Residential limit: 4.
25. The Rebate for a Non-Residential Graywater Irrigation System shall be considered on a case-by-case basis by the General Manager.
26. The Rebate for a medical equipment steam sterilizer retrofit with a water tempering device shall be \$1,500.
27. The Rebate for an Ultra High Efficiency Toilet shall be ~~\$250~~ **\$150**.
28. ***The Rebate for a water efficient commercial steam or combi oven shall be \$2,500.***
29. ***The Rebate for a commercial ozone laundry system shall be \$1,000.***

30. *The Rebate for a commercial waterless wok stove shall be \$5,000.*

~~28. The Rebate for replacement of an Ultra Low Flush Toilet with a High Efficiency Toilet shall be \$50.~~

### C. REBATE ELIGIBILITY

1. Rebates shall be issued for Qualifying Devices installed on Sites located within the District that are served by Water Distribution Systems regulated by the District. The Site shall be in compliance with District Rules prior to issuance of a Rebate.
2. No Rebate shall be issued for installation of Qualifying Devices that are required to be installed and maintained by Regulation XIV of the District *with the exception of High Efficiency Toilets installed at Sites owned and operated by California Non-Profit Corporations.*, and ~~and~~ **n**No Rebate shall be issued for installation of Qualifying Devices that have been used to obtain a Water Permit. Rebates shall be available for all retrofits until the date the retrofit becomes mandatory, such as the date a Change of Ownership or Change of Use occurs, *or* a Water Permit is issued, ~~or the date a Non-Residential retrofit is required pursuant to Regulation XIV.~~ Rebates shall not be available for Qualifying Devices that ~~become~~ *have been required to be installed and maintained* mandated by local, State, or Federal water conservation programs.
3. Rebates shall be available only for the initial purchase of a Qualifying Device. Rebates shall not be issued for replacement of an existing Qualifying Device with the exception of *High Efficiency* Clothes Washers that have been removed from the Qualifying Property by a previous owner/tenant. Applicants submitting an application for a High Efficiency Clothes Washer Rebate on a Site that has previously qualified for a High Efficiency Clothes Washer Rebate may be required to provide information to substantiate a subsequent Rebate.
4. Ultra High Efficiency Toilets shall meet or exceed the EPA WaterSense labeling criteria and shall bear the WaterSense Label and be listed on the WaterSense website.
5. Rebates shall be available for a maximum of twenty (20) toilets on all Non-Residential Qualifying Properties with the exception of Qualifying

~~Properties~~ **Properties** owned and operated by a California Non-Profit Corporation.

6. Outdoor Water Use Rebates

- a. Rebates for Cisterns shall be limited to 25,000 gallons of storage capacity on a Qualifying Property. All Cistern Rebate Sites shall have sufficient roof area to fill the capacity of the Cistern(s) after first flush during a “normal” Water Year and shall require verification of usable roof area by Site inspection.
- b. Rebates for Lawn removal shall be available only to Qualifying Properties irrigated with water from the Monterey Peninsula Water Resource System.
- c. To be eligible for any Rebate for Lawn Removal, Lawns must be green, regularly maintained at a low even height, irrigated regularly, and be well cared for at the time of application for a Rebate. Dead Lawns or Lawns that have been removed prior to issuance of a Lawn Rebate prequalification statement from the District shall not be eligible for a Rebate.
- d. A minimum of 250 square-feet of Lawn shall be removed to qualify for Rebate.
- e. Eligibility for any Lawn Removal Rebate shall be determined upon receipt of a complete application as described in Rule 141-E. The District will notify the Applicant by written prequalification documentation that the proposed Lawn removal and replacement proposal has been “prequalified.”

7. Non-Residential Rebates

- a. Water Efficient Ice Machines shall be listed as CEE Tier II.
- b. An X-ray film processor recirculation system shall be listed as a qualifying model by the California Urban Water Conservation Council Resource Center.
- c. Rebates for Dry Vacuum Pumps shall be available only when the Qualifying Device is replacing a water (liquid) ring pump.

- d. Rebates for retrofitting medical steam sterilizers with water tempering devices are limited to those sterilizers that use a continuous water flow to cool the steam discharge.
- e. ~~Rebates for Commercial High Efficiency Clothes Washers shall be limited to twenty (20) per Site unless specific authorization for a greater number has been secured from the General Manager.~~

**Section XXX:           Amendment to Rule 161, Stage 1 Water Conservation**

Rule 161-A shall be amended as shown below, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

Stage 1 is the first stage in the District’s Expanded Water Conservation and Standby Rationing Plan. During Stage 1:

- A. California American Water shall maintain its Water Year (October 1 through September 30) production from the Carmel River System *in compliance with regulatory restrictions imposed on the Carmel River basin* below ~~11,285 Acre Feet~~ (20 percent below historical production as determined in 1995).

**Section XX:           Amendment to Rule 164, Stage 4, Water Conservation/Rationing**

Rule 164 shall be amended as shown below, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

- 1. Trigger

- 1. Physical Shortage Trigger

Stage 4 shall take effect for any Water Distribution System that relies, in whole or in part, on production or production offsets from the Carmel River System or the Seaside Coastal Subareas, on June 1 or such earlier date as may be set by the Board following the District’s May Board meeting if total usable storage in the Carmel River System and the Seaside Coastal Subareas on May 1 is ~~less than~~ *within the Stage 4 Rationing range shown on Table XV-3.* ~~27,807 Acre-Feet and greater than 21,802 Acre Feet.~~ If total usable storage is equal or greater than ~~27,807 Acre Feet~~ on May 1, no water rationing shall be imposed. *Table XV-3 shall be periodically updated by Resolution of the Board.*

2. Regulatory Trigger – Continued Non-Compliance with Regulatory Limits through Stage 3

Stage 4 shall be enforced for all Water Distribution Systems presently at Stage 3 when Stage 3 has been in effect for at least thirty (30) days and when the California American Water year-to-date production from the MPWRS shown in Table XV-1 exceeds one of the following standards:

- a. The year-to-date target at month end during the months of October through March; or
- b. The year-to-date targets for a consecutive seven (7) day period during the months of April, May or June; or
- c. California American Water’s production from the MPWRS shown in Table XV-1 on a year-to-date basis exceeds the year-to-date target on any single (1) day during July, August, or September.

3. Regulatory Trigger – Legally Ordered Reduction in Supply

Stage 4 shall be enforced in any Water Distribution System that does not rely to any extent upon production or production offsets from the Main California American Water System when that system is required to comply with a final Cease and Desist Order by the State Water Resources Control Board, the Seaside Watermaster or any other final court order that reduces available supplies by fifteen percent (15%) from base year production. The term “base year” shall refer to the Water Year immediately preceding any triggering order.

4. Emergency Trigger

Stage 4 shall be implemented for any Water Distribution System, private Well, or Water User upon adoption of a Resolution of the Board of Directors. In that Resolution, the Board shall find there is an immediate need to reduce production by fifteen percent (15%).

5. Delay of Stage Implementation

The General Manager may delay implementation of this Stage to ensure adequate operation of the program. Delays authorized by the General Manager

shall not exceed ninety (90) days.

B. SUNSET OF STAGE 4

1. Water Supply Availability

Stage 4 shall continue until rescinded by Resolution of the Board of Directors. ~~In that Resolution the Board shall find that the total usable storage in the Carmel River System and the Seaside Coastal Subareas portions of the MPWRS is greater than 27,807 Acre Feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 4 may be made as early as the January Board meeting if the total usable storage in the Carmel River System and the Seaside Coastal Subareas portions of the MPWRS is equal to or greater than 27,807 Acre Feet on January 1.~~

2. In the event total usable storage is greater than 27,807 Acre-Feet, the General Manager shall review California American Water's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table XV-1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 4, Water Users shall revert to Stage 1. If California American Water's year-to-date production exceeds the year-to-date goal specified in Table XV-1 of Rule 162, California American Water Users shall revert to either Stage 2 or Stage 3. If year-to-date production in the California American Water subsystems exceeds the year-to-date target specified in Table XV-2 of Rule 162, Bishop, Hidden Hills and Ryan Ranch Water Users shall revert to Stage 3.

**Section XX: Amendment to Rule 165-167, Stages 5-7 Water Rationing**

Rules 165-A-1, 166-A-1, and 167-A-1 shall be amended as shown below, with appropriate adjustments for each Rule's numbering, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

A. TRIGGER

1. Physical Shortage Trigger

Stage {5-7} shall take effect for any Water Distribution System that relies, in whole or in part, on production or production offsets from the Carmel River System or the Seaside Coastal Subareas, on June 1 or such earlier date as may

be set by the Board following the District's May Board meeting if total usable storage in the Carmel River System and the Seaside Coastal Subareas on May 1 is less than *within the Stage {5-7} Rationing range shown on Table XV-3.* ~~27,807 Acre Feet and greater than 21,802 Acre Feet.~~ If total usable storage is equal or greater than ~~27,807 Acre Feet~~ on May 1, no water rationing shall be imposed. *Table XV-3 shall be periodically updated by Resolution of the Board.*

Rules 165-B-1, 166-B-1, and 167-B-1 shall be amended as shown below, with appropriate adjustments for each Rule's numbering, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

B. SUNSET OF STAGE 5

1. Water Supply Availability

Stage 5 shall continue until rescinded by Resolution of the Board of Directors. In that Resolution, the Board shall find that the total usable storage in the Carmel River System and the Seaside Coastal Subareas is greater than *the Stage {5-7} Rationing range shown on Table XV-3* ~~21,802 Acre Feet~~. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage {5-7} may be made as early as the following January Board meeting if ~~the total usable storage in the Carmel River System and the Seaside Coastal Subareas is equal to or greater than 27,807 Acre Feet on January 1.~~

2. In the event total usable storage is greater than *the amount required to trigger Stage 4 Rationing* ~~27,807 Acre Feet~~, the General Manager shall review California American Water's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table XV-1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 5, Water Users shall revert to Stage 1.
3. Where Stage 5 has been imposed upon any Water Distribution System to comply with a final Cease and Desist Order by the State Water Resources Control Board, the Seaside Watermaster or any other final court order, Stage 5 shall continue until a Resolution of the Board of Directors is adopted that finds that the triggering order has been lifted or no longer applies to that Water Distribution System.

The remaining provisions of Rule 165-167 shall remain unchanged by this ordinance.

**Section XX: Amendment to Rule 172-E, Landscape Water Audits**

Rules 172-E shall be amended as shown below, with added language as shown in bold italic type face, and deleted language shown in ~~strikeout~~ type face.

A. Rule 172-E shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

LANDSCAPE IRRIGATION RESTRICTIONS

~~Unless watering is by drip irrigation or through a hand held hose with a Positive Action Shut Off Nozzle, t~~The following watering schedule shall apply:

- ~~1. Odd Numbered Properties~~ *All Sites that require irrigation* shall water after ~~5 p.m. or before 9 a.m.~~ *or after 5 p.m.* on Saturdays and Wednesdays only. ~~This schedule shall also apply to properties located on the South or West side of the street in cities where no street address is available.~~
- ~~2. Even Numbered Properties shall water after 5 p.m. or before 9 a.m. on Sundays and Thursdays only. This schedule shall also apply to properties located on the North or East side of the street in cities where no street address is available.~~
32. Sprinkler irrigation overseen by a professional gardener or landscaper who is available on Site may occur between 9 a.m. and 5 p.m., but *in no case shall irrigation occur on more than* ~~shall not exceed two watering two~~ days per week.
3. *Non-sprinkler water efficient irrigation managed by a properly set and maintained Smart Controller shall be allowed.*
4. *Hand watering with a hose shall require a quick acting Positive Action Shut-Off Nozzle.*

**Section XX: 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 XX:            Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading.

This Ordinance shall not have a sunset date.

**Section XX:            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 by Director \_\_\_\_\_, and second by Director \_\_\_\_\_, the foregoing ordinance is adopted upon this \_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

AYES:

NAYS:

ABSENT:

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted on the \_\_\_\_ day of \_\_\_\_\_, 2015.

Witness my hand and seal of the Board of Directors this \_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
David J. Stoldt, Secretary to the Board



consideration. The draft ordinance is to be reviewed by the Water Demand Committee and the Technical Advisory Committee before final consideration by the Board. The following direction was given:

- Allow future exterior seating up to 50 percent of the number of interior seats identified in a Water Permit or otherwise documented at the Site without a Water Permit or Capacity Fee as this limited number of exterior seats do not affect the Water Use Capacity of the business;
- No Water Credit will be associated with removal of exterior seats (unless permitted using a water Allocation or Water Credit);
- The ordinance should apply prospectively to projects as of a specific date;
- Staff should work with the Technical Advisory Committee (TAC) to develop definitions of “outdoor” and “dining enclosure” to clarify the difference between indoor and outdoor seating;
- Staff should investigate methods to document seat counts at existing establishments; and
- The conceptual ordinance should be submitted to the Water Demand Committee for additional consideration before it is brought back to the Board for first reading.

## **EXHIBIT**

### **3-A Ordinance No. 164 (Second Draft)**

**EXHIBIT 3-A**

**DRAFT  
ORDINANCE NO. 164**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
ESTABLISHING WATER PERMIT REQUIREMENTS FOR  
OUTDOOR SEATING AT RESTAURANTS**

**FINDINGS**

1. The Water Management 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.
1. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
2. Downtown revitalization programs in the cities of Monterey and Pacific Grove have focused attention on the growing popularity of al fresco dining as a means to attract more patrons to restaurants.
3. MPWMD's administrative practice has been to not require a Water Permit for Exterior Restaurant Seating. This practice has been in place since the 1980's.
4. Board action in November 1990 (appeal of staff decision to not allow credit for an outdoor seating area for Rappa's Seafood Restaurant) supported the administrative practice to disallow credit for outdoor seating. As a result, District Water Permit administration practices continued to affirm that outdoor seating has no measurable Water Use Capacity.
5. The District Non-Residential Water Use Factor for Restaurant is 0.02 AF per indoor seat.
6. A & N Technical Services conducted a *Technical Analysis of Non-Residential Water Use Factors for the Monterey Peninsula Water Management District (MPWMD)*<sup>1</sup>. The MPWMD factor for Full Serve Restaurants was found to be statistically sound, although

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<sup>1</sup> October 10, 2011, Technical Memorandum.

slightly higher than the A & N finding.

7. It has been asserted that overall water consumption on the Monterey Peninsula is not impacted as a result of Exterior Restaurant Seating. The overall demand for restaurant dining within the District is not affected by outdoor seating unless a statistically significant number of new visitors to the region are attracted to the region due to outdoor dining. This has not been documented. Rather, al fresco dining creates competition between restaurants for an existing customer's demand.
8. Fire codes dictate the number of Interior Restaurant Seats that are allowed within a specified area. Locally, that number is one seat per 15 square-feet<sup>2</sup>.
9. Many restaurants operate below Capacity. That is, the restaurant is not turning a table continuously for the duration of the businesses operating hours. In addition, the hours of operation vary significantly from one restaurant to another and are subject to change. For these reasons, the location of the diner (indoors or out) has de minimis impact on potential consumption.
10. The Water Demand Committee recommended the Board allow fifty percent of the interior seat count as a standard exterior seating allowance. That is, up to fifty percent of the number of interior seats could be used outdoors without a measurable impact to Capacity.
11. There are a number of days each year when weather and climate affect the use of Exterior Restaurant Seats, making outdoor dining undesirable. Therefore, Exterior Restaurant Seating in excess of the "standard Exterior Restaurant Seat allowance" has a lower potential Water Use Capacity than Interior Restaurant Seats.
12. This ordinance defines a "Temporary Structure" to provide clarification during the Water Permit process.
13. Table 2: Non-Residential Water Use Factors is amended to delete an exemption for unenclosed structures, as there are factors related to permitted uses that could occur in such a structure.
14. CEQA Finding..... [TO BE PROVIDED PRIOR TO FIRST READING]
15. This ordinance shall amend and republish the Rules and Regulations of the Water Management District.

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<sup>2</sup> City of Monterey, Todd Bennett, Associate Planner, February 3, 2015

NOW THEREFORE be it ordained as follows:

## ORDINANCE

### Section One:            Short Title

This ordinance shall be known as the *2015 Exterior Restaurant Seating Ordinance* of the Monterey Peninsula Water Management District.

### Section Two:            Purpose

This ordinance codifies Water Permit requirements for exterior seating at Restaurant establishments. This ordinance also defines a category for “Wine Tasting Room” for purposes of issuing a Water Permit, and clarifies the definition of “Temporary Structures” related to occupancy that requires a Water Permit.

### Section Three:            Amendment of Rule 11, Definitions

Rule 11, Definitions, shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face.

***CONDITIONED SPACE<sup>3</sup>*** – “*Conditioned Space*” shall mean an enclosed space within a building where there is intentional control of the space thermal conditions within defined limits using natural, electrical, or mechanical means. Spaces that do not have heating or cooling systems but rely on natural or mechanical flow of thermal energy from adjacent spaces to maintain thermal conditions within defined limits are considered conditioned spaces. Examples include restrooms that use exhaust fans to draw in conditioned air to maintain thermal conditions and atria that rely on natural convection flow to maintain thermal conditions.

***EXTERIOR RESTAURANT SEAT*** – “*Exterior Restaurant Seat*” shall mean a dining/bar seat used by a Restaurant that is located an area that is in or into the open air outside the Restaurant building or structure.

***FAST FOOD RESTAURANT*** – “*Fast-Food Restaurant*” shall mean a restaurant that prepares and provides food quickly through a drive-through system or while you wait at the counter. Menu choices typically focus on hand-held food offerings prepared in

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<sup>3</sup> National Renewable Energy Laboratory definition

*quantity by a standard method, where a significant amount of the food is intended to be consumed off-site and is served in disposable packaging.*

***INTERIOR RESTAURANT SEAT*** – *“Interior Restaurant Seat” shall mean a dining/bar seat used by a Restaurant that is located inside a building or that is in a conditioned space.*

***RESTAURANT*** – *“Restaurant” shall mean premises where patrons order, sit, and eat a meal that is prepared and served and that is not a private residence. The defining characteristic of full-service Restaurants as categorized by the District as a “Group III Restaurant” is the use of china, glassware, or other reusable materials to serve the food/beverage(s). This definition of Group III Restaurant use shall also apply to cafeterias and Restaurants at institutional facilities that serve on china, glassware, or other reusable materials.*

***TEMPORARY STRUCTURE*** – *“Temporary Structure” shall mean a structure that is erected to be temporary in nature, usually without a permanent foundation or permanent plumbing.*

***WINE TASTING ROOM*** – *“Wine Tasting Room” shall mean a location intended for use in association with an Alcoholic Beverage Control (ABC) Type 02 License with or without an ABC Type 20 License; or a location intended for use in association with an ABC Type 20 License with an ABC Type 41 License. A Wine Tasting Room may offer “limited food preparation” as defined by California Health and Safety Code Section 113818, but is neither a Restaurant nor a bar/brew pub because the primary use of the site is for tasting, consumption and retail sale of wine.*

**Section Four: Amendment to Rule 20-B**

Rule 20-B-5, shall be amended as follows, with added language shown in ***bold italic*** type face and deleted language shown in ~~strikeout~~ type face.

Any Change of Use and any expansion of a Non-Residential use to a more intensive use as shown on Table 2 (Rule 24), except when the Change of Use or expansion modifies (1) an unenclosed structure that has no plumbing ***and that does not result in an Intensification of Use as the result of added Restaurant seats or other Group III or Group IV factors that increase Water Use Capacity***; or (2) a ~~Temporary~~ ***Structure*** ~~(i.e., a structure without permanent occupancy and without a permanent foundation and that has no plumbing)~~ ***that is not occupied for longer than thirty (30) consecutive days.***

**Section Five:**            **Amendment to Rule 24-B-1**

Rule 24-B-1, shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face.

- i.     *Restaurant Water Use Capacity shall be determined by the maximum Interior Restaurant Seat count authorized by the Jurisdiction and District. Exterior Restaurant Seats may be maintained for al fresco dining without a requirement for a new or amended Water Permit provided the maximum number of Exterior Restaurant Seats does not exceed one-half the number of authorized Interior Restaurant Seats (the “standard Exterior Seat allowance”.) Exterior Restaurant Seating not in compliance with this paragraph shall require a new or amended Water Permit.*

**Section Six:**            **Amendment to Rule 24, Table 2: Non-Residential Water Use Factors**

Rule 24, Table 2: Non-Residential Water Use Factors, shall be amended as shown on **Attachment 1**, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face.

**Section Seven:**        **Amendment to Rule 25.5-E**

Rule 25.5-E, shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face.

- E.     The following types of Permanent Abandonment of Capacity shall qualify for a Water Use Credit under this Rule:
  - 1.     Demolition of a building or use that has been recognized by the District as being a lawful water use;
  - 2.     *Demolition or removal of Exterior Restaurant Seats specifically permitted by debiting Water Use Capacity from an Allocation, Entitlement, or Water Credit shall qualify for a Water Credit.*

**Section Eight:**        **Interior and Exterior Restaurant Seating Existing as of the Effective Date of this Ordinance**

1. Interior and Exterior Restaurant Seats in use as of the effective date of this ordinance, and Exterior Restaurant Seats that have the Jurisdictional permit(s) approved as of August 1, 2015, shall be exempt from this ordinance, provided each such Restaurant/Bar with Exterior Restaurant Seats that exceed the fifty percent (50%) of the Interior Restaurant Seat count shall, on or before August 1, 2015, obtain a Water Permit from the District to document the existing conditions. No fee shall be assessed and no Water Release Form shall be required for the District to issue a Water Permit pursuant to this paragraph. Seats documented under this paragraph shall not qualify for a Water Credit upon demolition or removal.
2. After August 1, 2015, the District shall no longer issue Water Permit documentation under Paragraph 1 of this Section for Exterior Restaurant Seats that existed prior to the effective date of this Ordinance.

**Section Nine:**            **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 Ten:**            **Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading.

This Ordinance shall not have a sunset date.

**Section Eleven:**        **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 by Director \_\_\_\_\_, and second by Director \_\_\_\_\_, the foregoing ordinance is adopted upon this \_\_\_ day of \_\_\_\_\_, 2015 by the following vote:

AYES:

NAYS:

ABSENT:

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted on the \_\_\_ day of \_\_\_\_\_ 2015.

Witness my hand and seal of the Board of Directors this \_\_\_ day of \_\_\_ 2015.

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David J. Stoldt, Secretary to the Board

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## TABLE 2: NON-RESIDENTIAL WATER USE FACTORS

### Group I

Auto Uses	Retail	Warehouse	Dental Clinic	Office	Bank	Supermarket
Church	Nail Salon	Family Grocery	Medical Clinic	<b>Wine Tasting Room</b>	Fast Photo	Convenience Store
Dry Cleaner (No On-Site Laundry)			Veterinary Clinic	School	Gym	

### Group II

Users in this category prepare and sell food/beverages that are primarily provided to customers on disposable tableware. Food with high moisture content and liquid food may be served on reusable tableware. Pizza must be served on reusable platters or on disposable plates. Glassware may be used to serve beverages.

Bakery	Pizza	Coffee House	Ice Cream Shop
Catering	Deli	Bistro	Sandwich Shop

### Group III

Assisted Living (more than 6 beds) <sup>1</sup>	0.085 AF/Bed
Beauty Shop/Dog Grooming	0.0567 AF/Station
Child/ <del>Alzheimer's</del> Day Care	0.0072 AF/ <del>Child</del> Person
Dormitory <sup>2</sup>	0.040 AF/Room
Gas Station	0.0913 AF/ <del>Pump</del> Fuel Dispenser
Laundromat	0.2 AF/Machine
Meeting Hall/ <b>Banquet Room</b>	0.00053 AF/SF
Motel/Hotel/Bed & Breakfast:	0.1 AF/Room
w/Large Bathtub (Add to room factor)	0.03 AF/Tub
Irrigated Areas beyond ten feet of any building	ETWU
Plant Nursery	0.00009 AF/SF <del>Total</del> Land Area
Public Toilets	0.058 AF/Toilet
Public Urinals	0.036 AF/Urinal
Zero Water Consumption Urinal(s)	No Value
Restaurant ( <del>General bar</del> including Bar/Brewpub Seats)	0.02 AF/ <b>Interior Restaurant</b> Seat
<b>Exterior Restaurant Seats in Excess of the " Standard Exterior Seat Allowance "</b> <sup>3</sup>	<b>0.01 AF/Exterior Restaurant Seat</b>
Restaurant (24-Hour and Fast Food)	0.038 AF/Seat
Self-Storage	0.0008 AF/Storage Unit
Skilled Nursing/ <b>Alzheimer's Care</b>	0.12 AF/Bed
Spa	0.05 AF/Spa
Swimming Pool	0.02 AF/100 SF <b>of</b> Surface Area
Theater	0.0012 AF/Seat

### Group IV - MODIFIED NON-RESIDENTIAL USES

Users listed in this category have reduced water Capacity from the types of uses listed in Groups I-III and have received a Water Use Credit for modifications. ~~The General Manager shall maintain a list of specific properties in this Group that have received a Water Use Credit pursuant to Rule 25.5 for permanent reduction in use. Please inquire for specific property information.~~

~~For~~ All New Connections: Refer to Rule 24-B-2, Exterior Non-Residential Water Demand Calculations

Notes: Any Non-Residential water use which cannot be characterized by one of the use categories set forth in Table 2 shall be designated as "other" and assigned a factor which has a positive correlation to the anticipated Water use Capacity for that Site.

~~Unenclosed structures are exempt from the Non-Residential Permit requirements and have no Water Credit value.~~

<sup>1</sup> Assisted living Dwelling Units shall be permitted as Residential uses per Table 1, Residential Fixture Unit Count Values.

<sup>2</sup> Dormitory water use at educational facilities is a Residential use, although the factor is shown on Table 2.

<sup>3</sup> See Rule 24-B-1