

RULE 23.7 - MALPASO WATER COMPANY WATER ENTITLEMENT

A. MALPASO WATER COMPANY WATER ENTITLEMENT

1. The Malpaso Water Company Water Entitlement confers on Malpaso Water Company, LLC (Malpaso Water Company) a Water Entitlement of 80 AFA through the California American Water Company Water Distribution System.
 - a. Malpaso Water Company shall hold Water Right License 13868A (issued by the California State Water Resources Control Board on July 3, 2015); and
 - b. Malpaso Water Company shall exercise Water Right License 13868A in a manner that will allow up to 80.0 AFA (reflecting conveyance losses) from the Carmel River system to be assigned by Malpaso Water Company to Benefited Properties via an Assignment Document; or
 - c. Malpaso Water Company shall exercise Water Right License 13868A in a manner that will allow the diversion of up to 85.6 AFA of production water from the Carmel River system for interim use by California American Water.
2. The Malpaso Water Company Water Entitlement shall continue for so long as Malpaso Water Company and California American Water comply with the preceding conditions (a. and b., or c.) or as modified by Section B-1.
3. Benefited Properties of the Malpaso Water Company Water Entitlement shall mean all properties that are legal lots of record as of March 4, 2014, and that are located within the California American Water Service Area and within the Carmel River watershed and the City of Carmel-by-the-Sea as described as a “place of use” in Water Right License 13868A.
4. Malpaso Water Company is authorized to separately sell, transfer and convey to owners of Benefited Properties for such consideration and upon such terms and conditions as Malpaso Water Company in its discretion may determine, such portions of the Malpaso Water Company Water Entitlement as it may choose. Any portion of the Malpaso Water Company Water Entitlement conveyed to the owner of a Benefited Property by an Assignment Document shall vest in the owner of the Benefited Property, and become appurtenant to title to the particular Benefited Property, at the time the Water Use Permit is issued as evidence of such conveyance.
5. The Malpaso Water Company Water Entitlement shall be separate and distinct from any other Allocations provided in Rule 30. The existence of the Malpaso Water Company Water Entitlement shall not affect any existing use of water in the County of Monterey or any City, or any existing Allocation to the County of Monterey or any City.

6. For purposes of collecting Capacity Fees and tracking the use of a Water Entitlement, the projected increase in Water Use Capacity of a Benefited Property shall be calculated in the manner set forth in Rule 24, as it may be amended from time to time.
7. Each Water Use Permit issued pursuant to this Rule shall represent a vested property interest upon issuance and shall not be subject to Revocation or cancellation except as expressly set forth in subparagraph B below.
8. The portion of the Malpas Water Company Water Entitlement granted by each Water Use Permit shall not be subject to reallocation pursuant to MPWMD Rule 30, nor shall the setting of meters for the California American Water system be terminated or diminished by reason of any water emergency, water moratorium or other curtailment on the setting of meters.

B. REVOCATION, TERMINATION, OR MODIFICATION OF WATER USE PERMITS

1. Each Water Use Permit which, on or after January 1, 2075, embodies an annual Water Entitlement in excess of requirements for planned land uses on the Benefited Property, or which purports to authorize usage in excess of the constitutional limitation (California Constitution, article 10, Section 2) to reasonable and beneficial use, shall be subject to modification, Revocation, or termination in the sole discretion of MPWMD, such that the water usage authorized thereby shall not exceed such requirements and limitations.
2. Prior to any modification, termination or Revocation pursuant to this subparagraph B, the holder of the Water Use Permit shall be entitled to notice and a hearing, and any termination, Revocation, or modification shall be subject to appeal to the Board pursuant to Rule 70 of the MPWMD Rules and Regulations.

Added by Ordinance No. 165 (8/17/2015)