

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.
Documents distributed at
the meeting will be made
available in the same
manner.*

AGENDA

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

Tuesday, January 20, 2015, 1:30 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 December 5, 2014 Committee Meeting Minutes
2. Consider Draft Ordinance Establishing Water Permit Requirements for Outdoor Seating at Restaurants
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)

Set Next Meeting Date

Adjournment

Upon request, MPWMD will make a reasonable effort to provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. MPWMD will also make a reasonable effort to provide translation services upon request. Please send a description of the requested materials and preferred alternative format or auxiliary aid or service by 5 PM on Friday, January 16, 2015. Requests should be sent to the Board Secretary, MPWMD, P.O. Box 85, Monterey, CA, 93942. You may also fax your request to the Administrative Services Division at 831-644-9560, or call 831-658-5600.

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WATER DEMAND COMMITTEE

ITEM: ACTION ITEM

1. ADOPT MINUTES OF DECEMBER 5, 2015 COMMITTEE MEETING

Meeting Date: January 21, 2015

From: David J. Stoldt,
General Manager

Prepared By: Arlene Tavani

SUMMARY: Attached as **Exhibit 1-A** are draft minutes of the December 5, 2014 Water Demand Committee meetings.

RECOMMENDATION: The Committee should adopt the minutes by motion.

EXHIBIT

1-A Draft Minutes of the December 5, 2014 Water Demand Committee Meeting



EXHIBIT 1-A

DRAFT MINUTES Water Demand Committee of the Monterey Peninsula Water Management District *December 5, 2014*

Call to Order

The meeting was called to order at 1:35 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 November 13, 2014 Committee Meeting Minutes**
On a motion by Byrne and second of Lewis, the committee approved the November 13, 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**
There was consensus between Markey and Byrne to recommend that the Board direct staff to prepare a draft ordinance that would: (a) allow outdoor seating at 50 percent of the number of permitted indoor seats at no additional permit cost; (b) no water credit would be associated with the outdoor seats; (c) the ordinance would apply prospectively to projects as of a specific date; and (d) staff should work with members of the Technical Advisory Committee to develop a definition of enclosed space to clarify the difference between indoor and outdoor seating. The draft ordinance should be submitted to the Water Demand Committee for additional consideration before it is presented to the Board for first reading. Lewis was not present when consensus was reached on this item.

Public comment: **(1) Mike Zimmerman**, Coalition of Peninsula Businesses, stated that the existing policy that does not require permitting of outdoor seating should remain in effect. He submitted three examples of restaurant seating occupancy. The first example was a restaurant that offered indoor and outdoor seating. He provided statistics on the number of seats that were occupied over a ten-month period. He concluded that the District's water factor allotted to the number of indoor seats met the demand for all seating over the ten-month period. In the second example, the number of indoor and

outdoor seats in a restaurant was presented along with water use over a ten-month period. He concluded that water use remained below the estimated water capacity of the indoor seats. In the third example, Mr. Zimmerman concluded that restaurants are working within their allocations and there is no additional demand created by outdoor seating that is pushing water use beyond the allocations. Mr. Zimmerman's examples can be viewed at the District office or on the MPWMD website. **(2) John Narigi**, Coalition of Monterey Peninsula Businesses, submitted an example that listed the number of indoor and outdoor seats filled over a twelve-month period for a restaurant and bar. He concluded that the number of seats filled was never higher than the indoor seating capacity. **(3) Moe Ammar**, Pacific Grove Chamber of Commerce, spoke in opposition to any change to permitting practices for outdoor seating. He interviewed 17 restaurateurs in Pacific Grove and was told that seating reaches capacity only during the AT&T Pro Am golf tournament and Car Week with the Concourse events. He stated that with a five percent profit margin, restaurants could not afford to permit outdoor seating. **(4) Jody Hanson**, Monterey Peninsula Chamber of Commerce, stated that restaurant seating is underutilized. All seats are not full seven days a week, for 24 hours. She opined that the allocation per restaurant seat is based on filled seats. She stated that there is no problem with overuse of water from outdoor seating. There is no need to change permitting practices, unless there is a change in trends and tourists visit the area in greater numbers. **(5) Sam Teel**, Monterey County Hospitality Association, stated that outdoor seating is only a small boon to the economic vitality of restaurants. It does not require regulations the Water Management District contemplates. **(6) Todd Bennett**, City of Monterey Planning Department, stated that according to an informal survey conducted by City staff, outdoor seating does not increase the number of customers at a restaurant. In the City of Monterey, outdoor seating improvements are the responsibility of the requesting business, and City staff had advised permit applicants that the Water Management District did not require a permit for outdoor seating. The City of Monterey has 8 outdoor seating projects that are in process. He opined that it would be unreasonable and unfair for the Water Management District to change its rules and require a water permit for outdoor seating.

Comments from the committee members. **(1)** It would be inconsistent with our rules to ignore outdoor restaurant seating. Suggest that if the number of outdoor seats is within 35 percent of the number of indoor seats, no additional permit fee would be required. For new requests to add outdoor seating, the number of proposed outdoor seats must be within a specific percentage of its indoor seating. If you decide that outdoor seating should not be counted, there may be a business that is based entirely on outdoor seating. **(2)** Each jurisdiction may define an "enclosed space" differently, so it is important to develop a definition of outdoor seating parameters. **(3)** Any revision to the commercial water use factors should be delayed for 5 years. **(4)** Suggest that outdoor seats could be set at 50 percent of indoor seating. No water credit could be associated with the outdoor seats. *Narigi and Zimmerman agreed with that suggestion. Bennett recommended that the District develop a percentage that would be appropriate for ice cream shops, coffee shops and bars.* **(5)** The addition of outdoor seating could prompt required compliance with all Best Management Practices and water efficiency requirements. It was also proposed that installation be considered voluntary. *Narigi suggested that an alternative would be to allow a restaurant to fund the installation of water saving devices at another restaurant. He also asked the committee to consider that some locations, such as the*

Monterey Bay Plaza, have outdoor seats that are required for public access. They are not for the exclusive use of restaurant or hotel guests. Public access areas should be excluded. (6) If a restaurant decides to add outdoor seats in a number greater than 35 or 50 percent of indoor seating, a fee could be associated with the extra seats.

Other Items: No discussion.

Set Next Meeting Date

The next meeting was scheduled for January 15, 2014 at 1:30 pm.

Adjournment

The meeting was adjourned at 2:40 pm.

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WATER DEMAND COMMITTEE

ITEM: ACTION ITEM

2. CONSIDER DRAFT ORDINANCE ESTABLISHING WATER PERMIT REQUIREMENTS FOR OUTDOOR SEATING AT RESTAURANTS

Meeting Date: January 20, 2014 **Budgeted:** N/A

From: David J. Stoldt, **Program/** N/A
General Manager **Line Item No.:**

Prepared By: Stephanie Locke **Cost Estimate:** N/A

General Counsel Review: N/A

Committee Recommendation: N/A

CEQA Compliance: N/A

SUMMARY: At its December 15, 2014 meeting, the Board discussed the issue of permitting exterior restaurant seating and directed staff to prepare a draft ordinance for 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.

RECOMMENDATION: The Committee should review and discuss the preliminary draft ordinance (**Exhibit 2-A**) and provide direction to staff.

DISCUSSION: After consulting with local planners, staff substituted the terms “interior” and “exterior” for “indoor” and “outdoor” in the draft ordinance for consistency with local land use conditions. Definitions for “Restaurant” and “Fast-Food Restaurant” were also included as Table 2: Non-Residential Water Use Factors has different factors for these types of restaurants. In addition, a definition for “Wine Tasting Room” was added to aid staff with issuing Water Permits. The ordinance also clarifies the Water Permit process for unenclosed structures and temporary structures. The terms, definitions, and proposed process will be discussed with the TAC at its upcoming meeting.

The proposed ordinance “grandfathers” existing exterior restaurant seating and planned exterior seating that will be approved by the Jurisdiction before July 1, 2015. Sites that have a restaurant Water Permit on file with MPWMD will continue to be restricted to the permitted number of interior seats but may receive a Water Permit for existing exterior seating until the effective date of the ordinance. There will be no charge for documenting the existing exterior seating.

The District should send notification of the pending policy change and the deadline for permitting existing exterior seating to all restaurant water account holders and property owners. Staff will also work with the hospitality industry and the local Chambers of Commerce to contact and document businesses with large exterior seating areas. It is in the District’s interest to obtain the information prior to implementation of the ordinance to facilitate future permitting of exterior restaurant seating.

EXHIBIT

2-A Preliminary Draft Ordinance

EXHIBIT 2-A

DRAFT ORDINANCE NO. XXX

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

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.
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. 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. Historically, MPWMD has not required a Water Permit for outdoor seating. The Board determined on December 15, 2014 that the recent increase in this type of use warrants a change in policy.
4. Board action on an appeal by Rappa's Restaurant in November 1990 supported the position that outdoor seating had insignificant or no impact on water demand. In the Rappa's appeal, the District had denied a Water Credit for removal of exterior seats when the proprietor proposed to enclose the seating area, concluding outdoor dining was "seasonal and temporal – lunching or dining al fresco in Monterey is a limited activity at best." Further discussion during the hearing noted that outdoor dining was "limited by season and time of day." The Board upheld the recommendation to deny credit for removal of outdoor seating. As a result, District permitting procedures continued to assert that outdoor seating had no Water Use Capacity when issuing Water Permits.
5. It appears that overall water consumption on the Monterey Peninsula as a result of outdoor seating is not impacted by al fresco dining. Consumers tend to dine locally and outdoor seating is not the primary reason additional visitors come to the Monterey

Peninsula. As a result, the overall demand for dining within the District is not significantly affected by outdoor seating, rather al fresco dining creates competition between restaurants for a customer's demand.

6. CEQA Finding..... [TO BE PROVIDED PRIOR TO FIRST READING]
7. This ordinance shall amend and republish the Rules and Regulations of the Water Management District.

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 food service 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.

Exterior Restaurant Seat – "***Exterior Restaurant Seat***" shall mean a dining/bar seat used by a Restaurant that is located in 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 hamburgers, pizza, or fried chicken, or

other offerings prepared in 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 in an area that is mostly enclosed, covered, heated, and is or can be protected from the open air.

Restaurant – “Restaurant” shall mean a food service operation that normally produces food that is prepared and eaten on site, and where the food/beverages are predominantly served on china or other reusable materials, with the exception of food/beverages prepared for take-out.

Temporary Structure – “Temporary Structure” shall mean a structure that is constructed to be temporary in nature, usually without a permanent foundation or 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 XXX: 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) days.***

Section XXX: **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 Interior Restaurant Seats and/or Exterior Restaurant Seating which are not added in compliance with this paragraph shall require a new or amended Water Permit.***

Section XXX: **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 XXX: **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 XXX: **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 Rule 24-B-1-i, and Exterior Restaurant Seats that had final Jurisdictional approval as of July 1, 2015, shall be exempt from Rule 24-B-1-I, provided each such Restaurant/Bar with Exterior Restaurant Seats that exceed the fifty percent (50%) of the interior seat count shall, on or before July 1, 2015, require documentation via a Water Permit from the District to verify the existing conditions. No fee 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.

Section XXX: **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 XXX: **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 XXX: **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

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DRAFT

TABLE 2: NON-RESIDENTIAL WATER USE FACTORS

Group I

| | | | | |
|----------------------------------|------------|-------------------|---------------------------|-------------|
| Auto | Retail | Warehouse | Dental/Medical/Veterinary | Fast Photo |
| Church | Nail Salon | Family | Office School | Gym |
| Dry Cleaner (No on-site laundry) | | Convenience Store | Wine Tasting Room | Supermarket |

0.00007 AF/SE

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.

0.0002 AF/SE

| | | | |
|----------|-------|--------|----------------|
| Bakery | Pizza | Coffee | Ice Cream Shop |
| Catering | Deli | Bistro | Sandwich Shop |

Group III

| | |
|---|------------------------------|
| Assisted Living (more than 6 beds) ² | 0.085 per bed |
| Beauty Shop/Dog Grooming | 0.0567 AF/station |
| Child Care | 0.0072 AF/child |
| Dormitory ¹ | 0.040 AF/room |
| Gas Station | 0.0913 AF/pump |
| Laundromat | 0.200 AF/machine |
| Meeting Hall | 0.00053 AF/sf |
| Motel/Hotel/Bed and Breakfast | 0.100 AF/room |
| w/Large Bathtub (add to room factor | 0.030 AF/tub |
| Irrigated areas beyond 10 fee or any building | ETWU |
| Plant Nursery | 0.00009 AF/sf total land |
| Public Toilet | 0.058 AF/toilet |
| Public Urinal | 0.036 AF/urinal |
| Zero Water Consumption Urinal(s) | No value |
| Restaurant (including Bar/Brew Pub seats) | 0.020 AF/seat |
| Restaurant (24-Hour & Fast Food) | 0.038 AF/seat |
| Self-Storage | 0.0008 AF/storage unit |
| Skilled Nursing | 0.120 AF/bed |
| Spa | 0.050 AF/spa |
| Swimming Pool | 0.020 AF/100 sf 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.

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 at “other” and Unenclosed structures not supporting Group III or Group IV uses are exempt from the Non-Residential Permit requirements and have no Water Credit value.

¹ Dormitory water use at educational facilities is a Residential use although the factor is shown on Table 2.

² Assisted living Dwelling Units shall be permitted as Residential uses per Table 1, Residential Fixture Unit Count Values.

WATER DEMAND COMMITTEE

ITEM: ACTION ITEM

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)

Meeting Date: January 20, 2014 **Budgeted:** N/A

From: David J. Stoldt, **Program/** N/A
General Manager **Line Item No.:**

Prepared By: Stephanie Locke **Cost Estimate:** N/A

General Counsel Review: N/A

Committee Recommendation: N/A

CEQA Compliance: N/A

SUMMARY: Ordinance No. 163 (**Exhibit 3-A**) is an ordinance to replace Monterey Peninsula Water Management District Urgency Ordinance No. 159 adopted in April 2014. Urgency ordinances are effective for one year only. The proposed ordinance contains most of the language from the Urgency Ordinance. In addition to the language from the Urgency Ordinance, the proposed ordinance amends Rule 141 (Water Conservation Rebates) to clarify eligibility changes as a result of Non-Residential retrofit requirements enacted in 2013. The ordinance continues the financial incentives for removal of large irrigated public lawns and retrofits to non-profit buildings that otherwise might not replace toilets due to budget constraints. It also revises several outdated areas of the Expanded Water Conservation and Standby Rationing Plan, including triggers for Stages 4-7.

The following summarizes the proposed ordinance:

1. The maximum Lawn removal Rebate will be increased for permanent removal of irrigated Lawns at public Sites on a case-by-case basis when approved by the Board.
2. Triggers in Regulation XV for entering and exiting Stages 4-7 are outdated and no longer applicable. The usable storage numbers in Rules 164, 165, 166 and 167, were adopted over ten years and no longer accurately reflect the amount of supply needed by the community. The ordinance permanently replaces the existing target numbers with a table that can be amended annually by resolution of the Board. Use of revised target numbers for determining the need for rationing has been the standard practice during the past ten years.

3. Rule 161-A, Stage 1 Water Conservation, is being amended for consistency with Rule 161-B. The amendment is shown in **bold** (added language) and ~~strikeout~~ (deleted language).
 - 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-Foot (20 percent below historical production as determined in 1995).~~
4. Rule 172-E, Landscape Irrigation Restrictions, have been updated to reflect the two-day per week watering schedule of Wednesdays and Saturdays and to clarify the irrigation restrictions.

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. Modifications to Regulation XV are exempt from the California Environmental Quality Act (CEQA) under Water Code §10652 and CEQA Guidelines §15282 (v).

RECOMMENDATION: The Committee should review the ordinance and make a recommendation to the Board. First reading is scheduled for the February Board meeting.

EXHIBIT 3-A

DRAFT

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 (January 6, 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 urgency 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 Public and California Non-Profit Corporations to receive Rebates for purchase and installation of more than 20 toilets on a Site are necessary to achieve significant water saving retrofits that would not otherwise occur at Sites that are heavily used.
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. 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.

17. 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).
18. 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.
19. 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 Public and 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 a new outdoor watering schedule that is easier to understand and enforce.

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 ~~designed for~~ ***in a Residential use;***
3. Instant-Access Hot Water System;
4. High Efficiency Toilet ***in a Residential use;***
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-feet¹);
10. High Efficiency Urinal ***in a Residential use;***
11. Pint Urinal;
12. Rotating Sprinkler Nozzle;

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

13. Water Broom. Maximum available Rebate shall be for two Water Brooms per Qualifying Property;
14. ~~Commercial High Efficiency Clothes Washer 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 a High Efficiency Toilet shall be \$200 per toilet. ***The Rebate for replacement of an Ultra-Low Flush Toilet with a High Efficiency Toilet shall be \$50.***
2. The Rebate for High Efficiency Dishwasher shall be \$125.
3. The Rebate for High Efficiency Clothes Washer shall be \$500.
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.
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 shall be \$200.
12. The Rebate for a Pint Urinal shall be \$300.
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 for Non-Residential use 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 for an under counter model.
 - b. \$1,000 for a single tank door type model.
 - c. \$1,500 for a single tank conveyor.
 - d. \$2,000 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.
- ~~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 ~~no~~ 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 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 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 ***and in Public facilities.***
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 Four: **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 Five: **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 Six: 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 Seven: 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,~~ 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~~ ***primarily facing*** on the South ~~North~~ or West ~~East~~ 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~~ ***primarily facing*** on the North ~~South~~ or East ~~West~~ 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 Smart Controller shall be allowed.***
4. ***Hand watering with a hose shall require a quick acting Positive Action Shut-Off Nozzle.***

Section Eight: 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 Nine: 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 Ten: **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

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