

Submitted by staff
at 8/13/13 Committee
meeting
Item 3

RULE 28 - PERMIT AND WATER USE CREDIT TRANSFERS

A. PERMIT TRANSFERS

Any Permit issued pursuant to these regulations may be transferred from one Person to another upon payment of processing fees and charges required for issuance of an amended Permit, upon written notification to the District.

1. A Water Permit is Site specific and may not be transferred from one location to another.
2. Permit transfer shall result in the reprinting of the former Water Permit with the new Applicant's contact information.
3. Transferred Permits shall be subject to all conditions attached to the original Permit and are subject to fees under Rule 60.
4. Determinations of the General Manager under this Rule may be appealed to the Board pursuant to Rule 70 and Rule 71.

B. PROPERTY-TO-PROPERTY AND PROPERTY-TO-JURISDICTION TRANSFERS OF WATER USE CREDITS FOR COMMERCIAL AND INDUSTRIAL USES

Water Use Credits for existing water use which has been allowed by the District on or after January 1, 1985, may be transferred from one property to another for commercial and industrial Connections pursuant to this Rule and upon the approval of the Board of Directors. Commercial and industrial water credits may also be transferred directly into a Jurisdiction's Allocation upon the approval of the Board of Directors. Open space and Residential water use shall not be transferred. The following conditions shall apply:

1. Due to the District's ongoing concern about the viability of the available water supply and the possibility that water transfers may result in additional water usage, water transfers shall be approved by the Board of Directors, subject to the other provisions of this Rule, if the transfer will not have an adverse impact on the water supply. In exercising its discretion, the Board of Directors shall consider the impacts of the application under consideration, as well as the cumulative impacts of other transfers, on the water supply.
2. Water Use Credit transfers shall only occur within a single Jurisdiction. No inter-Jurisdictional transfer shall be allowed. Property-to-property transferred water credits shall not have any impact on a Jurisdiction's Allocation. Property-to-Jurisdiction transfers shall increase a Jurisdiction's available Allocation.
3. Water Use Credit transfers shall only occur within a single Water Distribution System. No inter-system transfers shall be allowed.
4. Water Use Credit transfers shall only occur with the prior approval of the city, county or airport district.

5. Water Use Credit transfers shall only be allowed from an existing Commercial or Industrial Use, and must be applied to the Intensification of another existing Commercial or Industrial Use or added to a Jurisdiction's Allocation. Other than transfers which add to a Jurisdiction's Allocation, transfer credits shall not originate from, or be transferred to, any Residential use. Transfer credits shall not derive from any prior open space water use.
6. Property-to-property Water Use Credit transfers shall only be used for intensification purposes. New water Connections shall not be issued based upon a property-to-property transferred Water Use Credit.
7. Property-to-property commercial Water Use Credit transfers shall only enable intensification of an existing commercial or industrial Water Use Capacity, as proposed by a current application for a Water Permit. Transfers shall not provide Water Use Capacity for new commercial or industrial water meter Connections. Transferred water credits shall not be "banked" for future use at any new or different Site.
8. The use of credits resulting from a property-to-Jurisdiction transfer shall be at the discretion of the Jurisdiction.
9. All Water Use Credit transfers shall originate only from prior documented commercial Water Use Capacity and shall be subject to each and every limitation on the calculation of Water Use Credits set forth in Rule 25.5.
10. All transfers of Water Use Credits shall occur only by the written (and recorded) agreement of the owner of record for each Parcel from which the transfer originates. This agreement shall confirm that the transfer of Water Credit is irrevocable, shall quantify remaining Water Use Capacity required by the originating Parcel(s), and acknowledge that any Intensification of Water Use Capacity on the originating Site thereafter shall result in additional Connection Charge fees. If all prior Water Use Capacity is transferred from a Site (due to demolition of all structures on that Site), the recorded agreement and notice shall consent to permanent removal of the meter Connection from the originating Site, and acknowledge that the placement of a new meter shall be limited due to unavailability of water.
11. Transfer of Water Use Credits shall only occur upon approval by the Board of Directors. The Board of Directors shall have sole and exclusive authority to determine the Water Use Capacity, which cannot be transferred by reason of Capacity requirements for the originating Site. The Board of Directors shall have sole and exclusive authority to determine the Water Use Capacity requirements for the receiving Site. The Board of Directors shall not approve any water credit transfer where money or other valuable consideration has been given in exchange for the water credit transfer. The Board of Directors shall not approve any Capacity for expanded water use deriving from a transferred water credit in any circumstance where money or other valuable consideration has been given

in exchange for use of the water credit. These limitations shall nonetheless allow the recipient of a water credit transfer to reimburse the donor of that credit for connection fees previously paid to the District for that increment of water.

12. Violation of the prohibition on the transfer of water credit for money or other valuable consideration shall result in immediate Revocation of the transfer credit.
13. Violation of the prohibition on the transfer of water credit for money or other valuable consideration is a misdemeanor as provided in Section 256 of the Monterey Peninsula Water Management District Law.
14. Transfer of Water Use Credits shall not be approved by the Board of Directors if the effect of the transfer shall cause the originating Site to have insufficient water credit to meet the Water Use Capacity requirements of all Existing Structures on the transferring property Site. If all prior water use is transferred from a Site (due to demolition of all structures), the transfer shall be approved only upon the removal of the meter Connection from the originating Site, and the recordation of the notice specified above.
15. The effect of any approved water credit transfer shall be the irrevocable extinction of any right or entitlement to the actual water use, Water Use Capacity, or water credit which has been transferred from the originating (transferring) Site.
16. Before any Water Use Credit transfer shall occur, the transfer fee required by Rule 60 for each originating Site shall be paid by the Applicant.

C. PUBLIC OPEN SPACE TRANSFERS (formerly Rule 24-B-2)

The General Manager, upon written request, shall enable a transfer of Water Use Credit derived from open space irrigation from one Site owned and operated by a Public entity to another Site owned and operated by that Public entity provided the use of transferred water shall be entirely dedicated to open space use.

The General Manager shall approve a Public open space transfer when the following criteria are met:

1. Transfers between different Public entities shall not be allowed.
2. Transfers from or to lands owned or operated by private (non-Public) individuals or companies shall not be allowed.
3. Transfers for other than open space use shall not be allowed.

4. Transfers which enable greater water use than the amount of water transferred shall be assessed Connection Charges. Water from the Jurisdiction's Allocation shall be debited for all Capacity of water use in excess of the transferred Water Use Credit pursuant to the process of Rule 23.
5. Any right or entitlement to Water Use Credit at the originating Site shall be terminated and extinguished to the extent of the Water Use Credit transferred.
6. Any new, expanded or modified use on the receiving Site shall require a Water Permit.
7. Conditions of the transfer shall be recorded on both the originating and receiving Sites.

Rule added by Ordinance No. 1 (2/11/80); amended by Ordinance No. 6 (5/11/81); Ordinance No. 8 (1/14/81); Ordinance No. 71 (12/20/93); Ordinance No. 79, (9/18/95); Ordinance No. 97 (3/19/2001), Ordinance No. 102 (2/28/02); Ordinance No. 107 (5/19/03); Ordinance No. 108 (5/19/03); Ordinance No. 125 (9/18/2006)