

DRAFT
ORDINANCE NO. 103
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING ITS RULES AND REGULATIONS REGARDING USE OF THE
WATER WEST ADJUSTMENT RESERVE

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. In performing this duty, the District Board is authorized to adopt rules and regulations to carry out its powers and duties.
2. The Water Management District has general and specific powers to ensure that water is available for present and future beneficial uses as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. The Water Management District Board enacted Ordinance No. 70 on June 21, 1993, to modify the resource system supply limit, establish jurisdictional allocations, and end the moratorium on the issuance of water connection permits. The District Board was able to end the moratorium primarily because of the expanded supply of water from California-American Water Company's (Cal-Am) Paralta Well in the Seaside Basin coastal subarea.
4. Ordinance No. 70 also incorporated previous water allocation decisions of the District Board that affected accounting of water use from existing water supplies, including the annexation of the Water West Water Distribution System (Water West) to Cal-Am in 1989.
5. Specifically, Ordinance No. 70 established a special reserve of 14.18 acre-feet of water (production) to replenish the Monterey County allocation for new water use that occurs within the former Water West boundary. Water use from this special reserve was limited to properties within the former Water West boundary that were subdivided after the effective date of Ordinance No. 70, i.e., July 21, 1993. The total quantity of water in the special reserve was not to exceed 12.76 acre-feet of water (sales).
6. The special reserve resulted from the difference between the supply of 264 acre-feet (production) attributed to Water West in the District's 1990 Water Allocation Program EIR and the calculation of the supply needed for Water West customers in 1993, i.e., 211 acre-feet (production) including ten percent system losses. Of this difference in production, 14.18 acre-feet were reserved for future use within the Water West boundary and 38.82 acre-feet were permanently set aside to meet the District's long-term water conservation goal.

- In Water Year 2001, metered sales for the customers within the former Water West boundary totaled 151.54 acre-feet. This sales amount equates to 168.38 acre-feet of production, assuming ten percent system losses, and is approximately 43 acre-feet less than the production that was calculated in 1993.
- Ordinance No. 103 amends District Rule 33 (C) to allow use of the Water West special reserve on properties within the former Water West boundary that are subdivided before the effective of this ordinance. Properties within the Water West boundary that are subdivided after the effective date of this ordinance are no longer eligible to receive water from the special reserve.
- Ordinance No. 103 further amends District Rule 33 (C) to reduce the amount of water available in the special reserve by 20 percent or 2.55 acre-feet (sales). With this reduction, the total quantity of water in the special reserve shall not exceed 10.21 acre-feet (sales). This reduction and permanent set aside is made in accordance with the 20 percent reduction specified by the State Water Resources Control Board (SWRCB) for Cal-Am's historical average diversions from the Carmel River in SWRCB Order No. WR 95-10 in 1995.
- Ordinance No. 103 further amends District Rule 33 (C) to limit the amount of water released from the special reserve to each property within the former Water West boundary to a maximum of 0.44 acre-feet (sales). This limit is consistent with the assumptions used in the 1993 Water West use calculations.
- Lastly, Ordinance No. 103 amends District Rule 33 (C) to specify that the water demand for new uses from the special reserve will be calculated using the District's current estimation methods, i.e., fixture unit count for residential uses and commercial water use factors for non-residential uses.
- This ordinance shall amend Rule 33 (C), Water West Adjustment Reserve, of 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 Water West Special Reserve Ordinance of the Monterey Peninsula Water Management District.

Section Two: Purpose

This ordinance addresses a concern for fairness by existing property owners within the former Water West service area who believe that they are disadvantaged in developing their properties due to the acquisition of the Water West system by Cal-Am.

Section Three: Amend Rule 33 (Jurisdictional and Reserve Water Allocations)

Section C of Rule 33 (Water West Adjustment Reserve) shall be amended as follows to limit the use of water from the Water West special reserve to properties within the former Water West boundary that are subdivided before the effective date of this ordinance. Additions are shown in ***bold italic*** and deletions in ~~strikeout~~.

C. WATER WEST ADJUSTMENT RESERVE

A special reserve shall be established to replenish the Monterey County allocation for new water use which occurs within the boundaries of the former Water West Water Distribution System. Replenishment of Monterey County's allocation from this special reserve shall occur only upon the approval of water use for real property within the Water West boundary which is subdivided ***before*** ~~after~~ the effective date of ***Ordinance No. 103*** ~~this ordinance~~. The total quantity of water use to replenish Monterey County's allocation pursuant to this paragraph shall not exceed ***10.21*** ~~12.76~~ acre feet (sales).

The maximum amount of water that can be released from the special reserve for new uses on properties within the boundaries of the former Water West Water Distribution System shall not exceed 0.44 acre-feet per property. All quantities of water released from the special reserve for new uses will be calculated using the District's current water demand estimation methods, i.e., fixture unit count for residential uses and commercial water use factors for non-residential uses.

Section Four: Publication and Application

The provisions of this ordinance shall amend the Rules and Regulations of the Monterey Peninsula Water Management District. Section titles and captions are provided for convenience and shall not be construed to limit the application of the text.

Section Five: 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 of Director _____, and second by Director _____ the foregoing ordinance is adopted upon this day of , 2002, by the following vote:

AYES:

NAYS:

ABSENT:

I, Ernesto A. Avila, 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 _____, 2002.

Witness my hand and seal of the Board of Directors this _____ day of _____, 2002.

U:\Darby\wp\ordinances\ord103_ver1.wpd Ernesto A. Avila, Secretary to the Board

Drafted: January 23, 2002 (8:33AM)