

## **ORDINANCE NO. 105**

### **AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT REVISING THE DEFINITION AND REGULATION OF WATER DISTRIBUTION SYSTEMS**

#### **FINDINGS**

1. The Water Peninsula Water Management District (MPWMD or 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 is authorized to establish a written permit system for regulation of water distribution systems, regardless of the number of connections served or the source of the water supply.
3. The board of directors finds that regulating all water distribution systems, including mobile water distribution systems, is necessary to protect District water resources and to assure that sufficient water will be available for present and future beneficial use by all District inhabitants and lands.
4. The board of directors finds, in light of State Water Resources Control Board (SWRCB) Order WR 95-10, and the listing of the California red-legged frog and steelhead as threatened species under the federal Endangered Species Act (ESA), that the public trust resources of the Carmel River must be protected, while respecting the historic agricultural nature of the Carmel Valley.
5. The Water Management District has enacted, by ordinance, a set of Rules and Regulations to implement its statutory authority. District Rule 11 defines the terms used in the regulation of water distribution systems and mobile water distribution systems. District Rules 20, 22, 40, 54-56 and 173 further define procedural and substantive rules that regulate these systems. Although these rules have been amended from time to time, the fundamental scope of these regulations was first enacted in the early 1980s. Definitions for the terms "water distribution system" and "water-gathering facility" were enacted on February 2, 1980 by Ordinance No. 1. The definition of "Source of Supply" was enacted on July 11, 1980 by Ordinance No. 3. The term "mobile water distribution system" was defined on July 13, 1981 by Ordinance No. 7. Significant refinements, changes and additions to the rules and regulations governing water distribution systems were adopted as part of Ordinance No. 96 on March 19, 2001.

6. The Water Management District has enacted a comprehensive scheme to review and regulate the creation and expansion of water distribution systems. That scheme was first enacted on February 11, 1980, by Ordinance No. 1, and has since been amended from time to time, most recently with Ordinance No. 96 adopted on March 19, 2001 (effective April 18, 2001).
7. The Water Management District has entered into agreements with the Monterey County Water Resources Agency and Pajaro Valley Water Management Agency regarding regulation of the former Fort Ord area, but these agreements are outdated and do not reflect the current water purveyors and institutional setting. Future action may be considered by the District Board to address this situation.
8. The Water Management District Board of Directors reaffirms the need to address the concerns enumerated in the Ordinance No. 96 Findings such as: (i) the cumulative impact of water distribution systems have upon the water resource, (ii) the demand burden on other systems that can result from failure of small systems, (iii) the adequacy of fire suppression afforded by small systems, (iv) water quality issues, (v) cross-contamination of water supplies and water systems, (vi) public utility service area limits, (vii) the need for clear identification of water rights for water systems, and (viii) the pressure to create new water systems due to lack of California-American Water Company (Cal-Am) supply as a result of State Water Resources Control Board (SWRCB) Order WR 95-10.
9. Since Ordinance No. 96 became effective in April 2001, five water distribution system applications have been submitted to the Water Management District; four have been approved, and one was denied without prejudice pending additional information. The District has encountered situations that were not anticipated and received questions from applicants and the public that were not explicitly addressed in the Rules and Regulations or Implementation Guidelines. Based on this information, recommended refinements and clarifications to the Rules and Regulations were suggested.
10. The Water Management District Board of Directors has reviewed recommended ordinance concepts and received input from the public at three ad hoc Water Demand Committee meetings in May-July 2002 and at a noticed public meetings on July 15, September 16 and November 18, 2002. Input was also received at the July 31, September 4 and October 28, 2002 meetings of the Policy Advisory Committee/Technical Advisory Committee, comprised of representatives from member jurisdictions.
11. The Water Management District Board of Directors determines that this ordinance will not result in an adverse impact to the environment, based on an Initial Study and Proposed Negative Declaration filed on October 21, 2002 and adopted by the Board at its meeting of November 18, 2002.
12. This ordinance is adopted to enhance the District's ability to protect water quality and quantity, to prevent diminution of waters within the District, to protect environmental

values, and is consistent with the District's authority to reasonably regulate in-stream, surface, and subterranean water supplies within District boundaries.

13. This ordinance shall amend Rules 11, 20, 22, 40, 54, 55, and 56 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 Distribution System Regulation Refinement Ordinance of the Monterey Peninsula Water Management District. Separate, board-approved draft Implementation Guidelines associated with Ordinance No. 96 (April 2001) will be refined to carry out this ordinance in an orderly and consistent manner, based on Board direction at its July 15, 2002 public meeting and the text contained herein.

### Section Two:            Purpose

This ordinance shall revise the permanent Rules and Regulations of the Water Management District to clarify procedures and substantive limitations that affect creation or amendment of water distribution systems and mobile water distribution systems.

### Section Three:        Amendment of Rule 11 (Definitions)

District Rule 11 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~), and by adding the following provisions set forth in italicized and bold face type (*bold face*).

***CARMEL RIVER BASIN-- "Carmel River Basin" means the area that drains the Carmel River and its tributaries. The Carmel River Basin is located between 36 and 37 degrees latitude and between 121 and 122 degrees longitude and encompasses approximately 250 square miles. The basin has its headwaters in the Sierra de Salinas Range and the Santa Lucia Range with a maximum elevation of 5,060 feet above mean sea level. The Carmel River has a length of about 36 miles from its headwaters to its mouth at the Pacific Ocean. The Carmel River Basin boundary is shown on a map maintained at the offices of the Water Management District, as that map may be amended from time to time.***

***LAGUNA SECA SUBAREA-- "Laguna Seca Subarea" means one of the subdivisions of the Southern Seaside Subbasin. Its boundary is shown on a map maintained at the offices of the Water Management District, as that map may be amended from time to time.***

**LEGAL PARCEL--** *The term “legal parcel” or “parcel” shall refer to the recorded legal description of a property that qualifies as a buildable legal lot of record under current rules of the applicable land use planning jurisdiction.*

**MULTIPLE- PARCEL CONNECTION SYSTEM--** A “multiple- *parcel* connection system” is a water distribution system providing water to two or more connections on two or more legal parcels, regardless of parcel location or ownership.

**NORTHERN INLAND SUBAREA--** *“Northern Inland Subarea” means one of the subdivisions of the Northern Seaside Subbasin. Its boundary is shown on a map maintained at the offices of the Water Management District, as that map may be amended from time to time.*

**NORTHERN COASTAL SUBAREA--** *“Northern Coastal Subarea” means one of the subdivisions of the Northern Seaside Subbasin. Its boundary is shown on a map maintained at the offices of the Water Management District, as that map may be amended from time to time.*

**NORTHERN SEASIDE SUBBASIN--** *“Northern Seaside Subbasin” means one of the major divisions of the Seaside Ground Water Basin. This is a set of geologic formations that stores, transmits, and yields water in the Seaside area. This subbasin is comprised of the Northern Coastal Subarea and the Northern Inland Subarea.*

**SEASIDE COASTAL SUBAREAS--** *“Seaside Coastal Subareas” is a term that collectively refers to the mapped hydrologic units known as the Southern Coastal Subarea and the Northern Coastal Subarea of the Seaside Groundwater Basin. These subareas are shown on maps available at the MPWMD office, and are based on professional hydrogeologic studies. The mapped boundaries of the subareas are subject to refinement pending updated hydrogeologic information.*

**SEASIDE GROUNDWATER BASIN--** *“Seaside Ground Water Basin” means the set of geologic formations that stores, transmits, and yields water in the Seaside area, comprising of the Northern Seaside Subbasin and the Southern Seaside Subbasin. The “Seaside GroundWater Basin” also includes those areas known as the Northern Coastal Subarea, the Northern Inland Subarea, the Southern Coastal Subarea and the Laguna Seca Subarea.*

**SINGLE-PARCEL CONNECTION SYSTEM--** A “single- *parcel* connection system” refers to a water distribution system providing water to one or more buildings or structures on one individual legal parcel. If the single parcel is subdivided into two or more separate parcels, the water distribution system is considered to be a multiple-connection system, regardless of parcel ownership, unless the newly formed legal parcels each are served by a separate well that has received a well construction permit from the Monterey County Health Department, registered, metered, inspected and been approved by the District within 180 days of the date of the final approval of the subdivision.

***SOUTHERN COASTAL SUBAREA-- "Southern Coastal Subarea" means one of the subdivisions of the Southern Seaside Subbasin. Its boundary is shown on a map maintained at the offices of the Water Management District, as that map may be amended from time to time.***

***SOUTHERN SEASIDE SUBBASIN-- "Southern Seaside Subbasin" means one of the major divisions of the Seaside Ground Water Basin. This is a set of geologic formations that stores, transmits, and yields water in the Seaside area. This subbasin is comprised of the Southern Coastal Subarea and the Laguna Seca Subarea.***

**Section Four:           Amendment of Rule 20 (Permits Required)**

District Rule 20 shall be amended by deleting the following provisions shown in strikeout text (strikeout), and by adding the following provisions set forth in italicized and bold face type (***bold face***).

**RULE 20.   PERMITS REQUIRED**

**A.   PERMIT TO CREATE/ESTABLISH A WATER DISTRIBUTION SYSTEM**

Before any person creates or establishes a water distribution system, such person shall obtain a written permit from the District. Before any person creates or establishes a mobile water distribution system, such person shall obtain a written permit from the District.

***Desalination, reclamation or importation facilities located within the District are not exempt because the source of supply is considered to be the water emanating from a facility within the District.***

Persons who hold a valid permit for construction and operation of a water distribution system from the Monterey County Health Department, prior to March 12, 1980, or a water distribution system in existence prior to that date, shall be deemed to have been issued a permit in compliance with these Rules and Regulations. Persons who filed a completed application to the Monterey County Health Department, date-stamped by the Department on or before March 19, 2001, for construction of a well serving a single-***parcel*** connection water distribution system (~~as that term was applied by the District at the time the well construction permit was issued~~) shall be deemed to have been issued a permit in compliance with these Rules and Regulations provided all of the following actions are taken: (1) the applicant receives a valid well construction permit from the Monterey County Health Department, makes the well active, meters the well, has the well inspected by MPWMD and receives an approved MPWMD Water Meter Installation Inspection form issued on or before ***October 15, 2001*** ~~480 days~~

~~from the effective date of this ordinance; and (2) each water-gathering facility of that system was registered with the District on or before **October 15, 2001** 180 days from the effective date of this ordinance.~~

No mobile water distribution system shall be issued a permit under the provisions of the previous paragraph. Each such system shall be required to apply for and obtain a permit in accord with Rules 21 and 22.

The expansion capacity limit and system capacity of previously existing systems shall be determined pursuant to Rule 40 (A).

[There are no changes proposed for Rule 20-B]

C. EXEMPTIONS FOR WATER DISTRIBUTION SYSTEM PERMIT

*An MPWMD water distribution system permit is not required for the following situations:*

1. *Where both: (a) the property to be served is wholly outside of the boundaries of the Monterey Peninsula Water Management District, and (b) the water source is also located outside of the District boundary. For properties that straddle the District boundary, an MPWMD water distribution system permit is not required where both: (a) the portion of the property served by the water distribution system is outside of the District boundary, and (b) the source of supply is outside of the District boundary.*
2. *An MPWMD permit is not required for a ~~A~~ single-~~parcel~~ connection water distribution system unless that system derives its source of supply from within the ~~Carmel River Basin, the Carmel Valley alluvial aquifer, from wells within 1,000 feet of that aquifer, or within 1,000 feet of Tulareitos, Hitchcock Canyon, Garzas, Robinson Canyon or Potrero Creeks, up to the limits of the Monterey Peninsula Water Management District boundaries, Resources System, as shown in the map provided in the Implementation Guidelines; and/or the Seaside Coastal Subareas of the Seaside Groundwater Basin. The Carmel River Basin and Seaside Coastal Subareas are defined in Rule 11, Definitions. Section Three of this ordinance.~~*
3. *For a single-~~parcel~~ connection system located within the Carmel River Basin that meets all of the following three criteria: (a) the well location lies outside of the mapped area 1,000 feet from the Carmel Valley alluvial aquifer or 1,000 feet from Tularcitos, Hitchcock Canyon, Garzas, Robinson Canyon or Potrero Creeks; (b) a valid well construction permit by the Monterey County Health Department was issued prior to January 15, 2003; and (3) the applicant makes the well active, registers the well with MPWMD, meters the well, has the well inspected by MPWMD, and receives an approved*

***MPWMD Water Meter Installation Inspection form issued on or before June 30, 2003.***

4. ~~An MPWMD permit is not required~~ ***To reactivate, refurbish or replace existing wells that are registered with the District, as defined in Section Three of this ordinance Rule 11. To qualify for this exemption, the reactivated, refurbished or replacement well must have substantially the same purpose and capacity of the structure replaced. The replacement structure must be consistent with other MPWMD Rules and Regulations. This exemption from the MPWMD permitting process does not affect in any way the applicant's obligation to comply with permit requirements by other regional, state or federal agencies.***
5. ~~An MPWMD permit is not required~~ ***For on-site cisterns that serve existing single-parcel connection, residential situations where rainwater is captured for on-site landscape irrigation use.***
6. ~~An MPWMD permit is not required~~ ***For deliveries of water by commercial companies in volumes less than or equal to 55 gallons per container.***
7. ***For an existing or future new irrigation system, owned and operated by MPWMD, which exists solely to irrigate riparian vegetation in the Carmel River riparian corridor as part of the MPWMD Water Allocation Program EIR Mitigation Program.***
8. ***For an existing, expanded or new non-MPWMD irrigation system that is served by a well completed prior to January 15, 2003 with the purpose to irrigate riparian vegetation in the Carmel River riparian corridor pursuant to conditions of approval of an MPWMD River Work Permit, a contract with MPWMD, or any other irrigation use approved by the District. This exemption does not apply to irrigation projects that are served by wells completed on or after January 15, 2003.***
9. ***For a water distribution system in existence prior to April 18, 2001 that is comprised of multiple, contiguous parcels owned by the same owner. Such a system may be referred to as "pre-existing multiple-parcel connection system." However, any amendments to such a water distribution system on or after April 18, 2001 must be permitted by the District pursuant to Rule 22.***
10. ~~The District permit enables use of a water well or any other water distribution system component; the An MPWMD District permit is not needed simply To~~ ***only construct (but not use) the system components. The District permit enables use of a water well or any other water distribution system component.***

- 11. Any exemption pursuant to this Rule 20-C, however, shall not be construed to exempt the facility or its owner/operator from any other requirement set forth in these MPWMD Rules and Regulations, or any other regulatory or legal requirement.*

**Section Five: Amendment of Rule 22 (Action on Application for Permit to Create/Establish a Water Distribution System)**

District Rule 22 shall be amended by deleting the following provisions shown in ~~strikeout text (strikeout)~~, and by adding the following provisions set forth in italicized and bold face type (*bold face*).

**RULE 22. ACTION ON APPLICATION FOR PERMIT TO CREATE OR ESTABLISH A WATER DISTRIBUTION SYSTEM**

C. **MINIMUM STANDARDS FOR GRANTING PERMIT**

An application may be considered for approval if it complies with each of the following minimum standards; if any one of the following standards is not met, the application shall be denied:

- (1) The application identifies at least one responsible party who, at all times, will be available and legally responsible for the proper performance of those things required of a permit holder by this ordinance.
- (2) The ability of the source of supply for any water distribution system designed to deliver water for any potable use to other than a single-*parcel* connection system, to provide water that complies with the standards set forth in Title 22 of the California Administrative Code.
- (3) The application identifies the location of each source of supply for the water distribution system, and the location of each use supplied by a mobile distribution system.
- (4) The proposed water distribution system will not create an overdraft or increase an existing overdraft, unless a valid superior right is proven.
- (5) The proposed water distribution system will not adversely affect the ability of existing systems to provide water to users, *unless a valid superior right is proven.*



D. MANDATORY CONDITIONS OF APPROVAL

1. When the board or hearing officer approves the permit, it shall establish for each system: (i) an expansion capacity limit, which sets the total number of connections which can be served; (ii) a system capacity limit, which sets the maximum annual production in acre-feet per year; and (iii) a municipal unit (jurisdiction) allocation. In addition to the following mandatory conditions, the board or hearing officer may impose other conditions in granting the permit:

[No change to required conditions (a) through (n)]

2. Every applicant as a condition to holding a permit pursuant to this rule shall report annually ~~by August 1st~~ in the form and manner prescribed by the District, the quantity of water delivered from each source of supply, total water produced, and average daily number of connections in the system, and the number of new connections and disconnections, a map or maps of the service area, and the identity and address of each responsible party as of June 30th of the previous year.
3. As a condition precedent to use or enjoyment of any permit pursuant to this rule, each applicant shall be required to first obtain and comply with any required approval from the local jurisdiction in which the property is located; and if applicable, obtain and comply with a certificate from the California Public Utilities Commission, or a coastal development permit or other approvals pursuant to the California Coastal Act. Failure to comply with this prerequisite shall provide cause for revocation of any permit issued pursuant to this rule.
4. *For permits issued after January 15, 2003, construction tasks for facilities authorized in the MPWMD water distribution system permit shall be initiated within one year (365 days except 366 days for leap years) from the date the permit is issued. The permit shall expire if no action is taken within that year. Permitted construction tasks shall be completed and water distribution system operation shall commence within two years from the date the permit is issued. The permittee may apply in writing to the General Manager for a 180-day extension to the project initiation deadline and/or the system operations commencement deadline, to be approved at the discretion of the General Manager.*

**Section Six: Amendment of Rule 40 (Determination of System Limits)**

District Rule 40 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~), and by adding the following provisions set forth in italicized and bold face type (***bold face***).

**RULE 40. DETERMINATION OF SYSTEM LIMITS**

A. **DETERMINATION OF *SYSTEM CAPACITY (PRODUCTION) AND EXPANSION CAPACITY (CONNECTION) LIMITS ("SYSTEM LIMITS")***

~~Systems with a valid permit for construction and operation of a water distribution system prior to March 12, 1980 shall have an expansion capacity limit equal to the maximum number of connections as specified in that permit. For those systems existing prior to March 12, 1980, where no maximum number of connections has been specified, and for water utilities, the initial expansion capacity limit of that system shall be based upon the following formula:~~

$$\begin{aligned} &\text{Initial Expansion Capacity Limit} = \\ &\frac{\text{System Capacity} \times \text{Average Daily Number}}{\text{Actual 1979 Production} \times 1979 \text{ Connections}} \end{aligned}$$

~~The General Manager, by applying the above formula, shall determine the expansion capacity limit for previously existing systems and notify each system of that number within thirty (30) days of the effective date of this ordinance. Persons may appeal the General Manager's determination of expansion capacity limit pursuant to Rule 70.~~

~~The expansion capacity limit of new systems shall be determined by the Board pursuant to Rule 22 (C).~~

***Pursuant to Rule 20, the District shall determine both the system capacity (annual production) limit and the expansion capacity (connection) limit for existing water distribution systems. The term "system limits" is used to refer to the system and expansion capacity (production and connection) limits. The term "existing" in this context refers to systems existing prior to April 18, 2001, the effective date of MPWMD Ordinance No. 96.***

**1. Existing Water Systems with System Limits Previously Determined by MPWMD**

*The District need not re-determine the system limits for water distribution systems that have been issued permits prior to April 18, 2001 that include defined system limits.*

**2. Existing Water Systems with System Limits Not Previously Defined by MPWMD**

*The District General Manager shall determine the system limits for all water distribution systems that meet either of the following two characteristics:*

- (a) the system was issued an MPWMD water distribution system permit prior to April 18, 2001 that did not include defined system limits; or*
- (b) the system existed prior to January 15, 2003 and never received an MPWMD permit, but is considered lawful due to age or an exemption described in Rule 20.*

*Paragraphs A-3 and A-4 below describe two possible scenarios.*

**3. Existing Water Systems with System Limits Not Previously Defined by MPWMD and Meet All Criteria to Be Treated as a Class**

*Properties with water systems existing prior to January 15, 2003 and which meet the three criteria specified below in this paragraph A-3 shall be treated as a class. The District does not calculate individual numerical system limits for each property within this class. The system limits for this class are defined as the water use associated with the structures and activities allowed by the zoning and land use regulations of the jurisdiction in which the property is located. All of the following three criteria must be met in order for the system to be treated as part of this class:*

- (a) the system is a single-parcel connection system that existed prior to April 18, 2001;*
  - (b) the single parcel is zoned primarily for single-family residential use (such as R1, RDR, LDR zoning designations); and*
  - (c) the single parcel is no larger than 2.5 acres in size.*
- Other valid reasons may be considered by the District Board on appeal (Rule 70).*

**4. Existing Water Systems with System Limits Not Previously Defined by MPWMD Which Must Be Treated on a Case-by-Case Basis**

*Water systems existing prior to January 15, 2003 but which do not meet the criteria specified in paragraph A-3 above shall be treated on a case-by-case basis. The system limits shall be determined based on an assessment that may consider any or all of the following information:*

- (a) historical water use records (especially the 10-year period prior to the date of assessment);*
  - (b) the physical capabilities of the existing system;*
  - (c) new or expanded activities that could occur without the need for permits by any governmental agency;*
  - (d) development plans approved prior to January 15, 2003 by the jurisdiction in which the property is located;*
  - (e) conclusions about environmental effects;*
  - (f) water rights; and/or*
  - (g) any other information submitted by the system owner and deemed relevant by the General Manager.*
- Other valid reasons may be considered by the District Board on appeal (Rule 70).*

**5. New Water Systems Created or Amended On or After January 15, 2003 Are to Be Treated on a Case-by-Case Basis**

*Determination of system limits for any water distribution system created or amended on or after January 15, 2003 and requiring an MPWMD permit is guided by MPWMD Rules and Regulations. Each system shall be considered on a case-by-case basis. The system limits shall be determined based on an assessment that may consider the relevant criteria described in paragraph A-4 above, in addition to documentation regarding any or all of the following:*

- (a) anticipated future water use;*
- (b) the physical capabilities of the proposed system;*
- (c) new or expanded activities or development plans for which permit applications submitted to governmental agencies have been deemed complete and are being processed by those entities;*
- (d) findings on environmental effects;*
- (e) water rights; and/or*
- (f) any other information submitted by the system owner and deemed relevant by the General Manager.*

*Other valid reasons may be considered by the District Board on appeal (Rule 70).*

~~The system expansion capacity limits of any system may be amended by the Board upon request by the permit holder pursuant to Rule 22 (D). Amendment of the expansion capacity limit shall be based upon changes in the system capacity of the water distribution system.~~

**B. ANNUAL WATER DELIVERY SYSTEM REPORT**

The General Manager shall annually ~~by on or about October 1,~~ compile a report stating the quantity of water delivered from each source of supply, the total water produced, the average daily number of connections in the system, and the number

of new connections in the system, and the number of new connections and disconnections in the previous water year for each water distribution system in the District. The General Manager shall compile this report from the reports submitted by the owner/operator of water distribution systems pursuant to Rule 22 ~~(B)(3)~~ and other sources as appropriate. Such report shall be submitted to the Board.

**Section Seven: Amendment of Rules 54, 55, 56, 56-A and 57 (Well Reporting)**

District Rules 54, 55, 56, 56-A and 57 shall be amended by deleting the following provisions shown in strikeout text (~~strikeout~~), and by adding the following provisions set forth in italicized and bold face type (*bold face*).

**RULE 54. REPORTING**

A. REPORTING REQUIRED

Each owner and/or operator of a well located within the boundaries of the Monterey Peninsula Water Management District shall file with the District an annual production statement ~~on~~ *in* the form ~~provided~~ *and manner prescribed* by the District ~~on or before the 15th day of August.~~ The statement shall set forth the water production from each well for the preceding water ~~reporting~~ year (the 12 month period commencing on *October 1* ~~July 1~~ of the preceding calendar year, and concluding on *September 30* ~~June 30~~ of the current calendar year).

[no change to section B and C]

D. WELLS REQUIRED TO HAVE WATER METERS

Water meters shall be required for the following classes of wells within the boundaries of the Monterey Peninsula Water Management District:

1. All new wells (inside or outside the boundaries of the Monterey Peninsula Water Resource System (MPWRS) which are completed after February 23, 1992.
2. All wells within the boundaries of the MPWRS that:
  - a. were completed before February 23, 1992; and
  - b. did not register with the MPWMD by June 30, 1992.
3. All wells (inside or outside the boundaries of the MPWRS) which produce 5 af (or more) in any single water ~~reporting~~ year (the 12 month period commencing on *October 1* ~~July 1~~ of the preceding calendar year, and concluding on *September 30* ~~June 30~~ of the current calendar year).

4. All wells (inside or outside the boundaries of the MPWRS) where total land area (all parcels) served is larger than 2 1/2 acres. A property owner can apply for a variance from this standard pursuant to Rule 57.
5. All wells upon property within the boundaries of the MPWRS for which a title transfer is made upon resale after June 30, 1992.
6. Any well that has been issued a well construction permit from the Monterey County Health Department on or after December 1, 2000 must be metered and report using the water meter method, regardless of parcel size, location, type of use or annual production.

**RULE 55. LAND USE METHOD**

**A. REPORTING REQUIRED**

Each owner and/or operator of a well located within the boundaries of the Monterey Peninsula Water Management District, whose well is identified in Rule 54 (paragraph C) as being in a class of wells not requiring a water meter, shall file with the District an annual water production statement ~~on~~ *in* the form ~~provided~~ *and manner prescribed* by the District ~~on or before the 15th day of August.~~ The statement shall set forth the water production from each well for the preceding water reporting year (the 12 month period commencing on *October 1 July 1* of the preceding calendar year, and concluding on *September 30 June 30* of the current calendar year) based upon the land use method.

**RULE 56. WATER METER METHOD**

**A. REPORTING REQUIRED**

Each owner and/or operator of a well located within the boundaries of the Monterey Peninsula Water Management District, whose well is identified in Rule 54 (paragraph D) as being in a class of wells which require a water meter, shall file with the District an Annual Water Production Statement ~~on~~ *in* the form ~~provided~~ *and manner prescribed* by the District ~~on or before the 15th day of August.~~ The statement shall set forth the water production from each well for the preceding water reporting year (the 12 month period commencing on *October 1 July 1* of the preceding calendar year, and concluding on *September 30 June 30* of the current calendar year) based upon the water meter method.

**RULE 56A. WELL METER INSTALLATION UPON CHANGE OF OWNERSHIP**

In accord with Rule 54 (paragraph D), wells which are located within the boundaries of the Monterey Peninsula Water Management District *Resources System (MPWRS)* shall be required

to have a water meter installed on or before the close of escrow if the property served by that well has a title transfer made upon resale and change of ownership after June 30, 1992. ~~Exceptions to this requirement may apply pursuant to a variance granted under Rule 57.~~

A. PROOF OF RETROFIT UPON CHANGE OF OWNERSHIP

Before the transfer of title for any change of ownership (defined by Rule 141) of real property within the District, the selling owner(s) or his/her/their authorized agent shall, in the form and manner specified by the District, certify compliance with the well meter requirements of this ordinance by each of the following methods which may apply:

1. Certify that there are no wells on the property.
2. Certify that each well on the property has been registered and metered in compliance with this regulation.
3. Certify that each well which is not metered *is located outside of the MPWRS, and* has been registered, and is exempt from the meter requirement pursuant to a variance granted under Rule 57.

Each certification required by Rule 56A shall be forwarded to the District before the close of escrow.

B. CERTIFICATION OF COMPLIANCE IS REQUIRED BEFORE CLOSE OF ESCROW

It shall be a violation of this regulation for any buyer or seller to instruct an escrow agent to close escrow for any sale of property in the District prior to compliance with paragraph A of Rule 56A. After the transfer of title for any change of ownership (defined by Rule 141) of real property within the District, it shall be unlawful for the purchasing owner(s) to produce water from that well unless:

1. that well has been registered with the District, and
2. that well has been equipped with a water meter as required by Rules 54 and 56 of this regulation, or
3. that well is *located outside of the MPWRS and* is exempt from the meter requirement pursuant to a variance granted under Rule 57.

A violation of this regulation shall also be a violation of Section 360 of the District law (production without a required water meter) and shall be punishable by a fine not to exceed five hundred dollars (\$500); each day of well operation in violation shall constitute a separate offense.

**RULE 57. CRITERIA AFFECTING WATER METER INSTALLATION REQUIREMENTS**

**B. VARIANCE FROM WELL METER REQUIREMENTS.**

1. **Written Application.** For wells that have been issued a well construction permit from the Monterey County Health Department on or before November 30, 2000, any property owner or well operator may apply by written application for a variance from the requirement to meter wells under Rules 54 and 56 of this Regulation V, *except for Rule 54-D(5), transfer of title within the MPWRS.* A variance shall be granted only upon clear and convincing evidence which proves the water production from all wells serving that property does not equal or exceed 5 af in any single reporting year (the 12 month period commencing on *October 1* ~~July 1~~ of the preceding calendar year, and concluding on *September 30* ~~June 30~~ of the current calendar year). The District shall not charge a fee for staff review and action on this variance.

The variance application shall be in the form and manner provided by the District, shall be signed by the property owner under penalty of perjury, and shall include the following: (1) data to verify the specific type, location, and character of the applicant's water use, (2) the actual historical uses of water use at that site, (3) data to verify limitations on production capacity on that site, and (4) data substantiating any claimed change in water use.

**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 titles and captions are provided for convenience and shall not be construed to limit the application of the text.

**Section Nine: Effective Date and Sunset**

This ordinance shall be given effect at 12:01 a.m. on the *30<sup>th</sup> day following the date of* its adoption on second reading. This Ordinance shall sunset when California-American Water Company complies with Condition #2 of SWRCB Order WR 95-10.



**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 of Director Henson, and second by Director Erickson, the foregoing ordinance is adopted upon this 16th day of December , 2002 by the following vote:

AYES:            Directors Henson, Erickson, Lehman, Lindstrom, and Potter

NAYS:            Directors Edwards and Pendergrass

ABSENT:        None

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 16th day of December, 2002.

Witness my hand and seal of the Board of Directors this 13th day of January, 2003.



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Ernesto A. Avila, Secretary to the Board