

**FINAL
ORDINANCE 119
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING DISTRICT RULES TO MODIFY THE
EXPANDED WATER CONSERVATION AND
STANDBY WATER RATIONING PLAN**

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. 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. State Water Resources Control Board (SWRCB) Order No. WR 95-10, issued in July 1995, ruled that California-American Water Company (Cal-Am) did not have a legal right to take approximately 69 percent of the water historically supplied to Cal-Am users. The SWRCB has set specific goals to reduce Cal-Am's water diversions from the Carmel River Basin.
5. Under SWRCB Order No. WR 95-10, Cal-Am has been ordered to reduce its historical diversion from the Carmel River Basin by 20 percent in Water Year 1997 and each subsequent year until a major new water supply is in place to offset the illegal diversion.
6. Excessive water consumption in the winter and spring of 2004 necessitated an emergency request by Cal-Am to the California Public Utilities Commission (CPUC) to temporarily increase rates for water service to avoid SWRCB violations. Existing District rules did not include regulation for this consumption emergency.
7. Amendments to District Rules are necessary to address a water emergency caused when increased consumption would force diversions over the legal limits set by SWRCB Order WR 95-10, to reflect current diversion protocols based on subsequent SWRCB Orders, and to facilitate emergency conservation rate authority for Cal-Am with the CPUC.
8. This ordinance shall be reviewed and approved under the California Environmental Quality Act (CEQA) based upon a Negative Declaration.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the Expanded Water Conservation and Standby Rationing Plan Amendments for Water Consumption Emergency. This ordinance shall amend District Rules 11, 160, 162, 163, 164, 165, 166, 167, 169, 170, 171, 172, and 175.

Section Two: **Purpose**

This ordinance shall amend the permanent Rules and Regulations of the Water Management District to modify standards and procedures pertaining to water use restrictions for the Monterey Peninsula during present and future water supply emergencies. This ordinance is intended to maintain Cal-Am's water production from the Carmel River below the limits set by the SWRCB, to operate its system in accordance with the 2001 Conservation Agreement between Cal-Am and NOAA Fisheries and the San Clemente Reservoir Drawdown Project, and to respond to emergency situations that require immediate water use reductions.

Section Three: **Amendment of Rule 160 (General Provisions)**

District Rule 160 shall be amended by deleting the following provisions shown in strikeout text (strikeout).

RULE 160 **GENERAL PROVISIONS**

[NOTE: No changes are proposed to Sections A through H.]

- ~~I. Cal-Am shall prepare an analysis of the impacts of each of the actions and conditions described in this ordinance, inclusive, on the revenues and expenditures of Cal-Am, and proposed measures to overcome those impacts, such as the development of reserves and rate adjustments. A copy of the analysis shall be provided to the District.~~
- ~~J. Cal-Am shall prepare a per-capita-based tariff rate design and submit this rate design to the California Public Utilities Commission for review and approval. A copy of the plan filed with the California Public Utilities Commission shall be provided to the District. This rate design shall include and be based on the following:~~
 - ~~➤ An accurate survey of water users who are served by the Cal-Am water distribution system where that system derives water from the MPWRS;~~
 - ~~➤ An assumed Cal-Am annual production value that does not exceed the amount of the water production goal set by the SWRCB;~~
 - ~~➤ Unaccounted for water use that does not exceed an average of seven (7) percent of total Cal-Am production;~~
 - ~~➤ A fair weighting to differentiate residential from non-residential water uses based upon historic water use by that sector;~~

- ~~Factors to fairly differentiate small and large residential lots;~~
- ~~A methodology which provides an equal amount of water for each permanent resident;~~
- ~~A methodology which provides a fair quantity of water for each residential and non-residential use based upon current consumption factors and Best Management Practices;~~
- ~~A mechanism to implement excessive use rates or accelerated rate increases during Stage 3 Water Conservation as a mechanism to discourage excessive water use;~~
- ~~A statement regarding the confidentiality of information gathered pertaining to the number of residents on single-family and multi-family accounts.~~

Section Four: Amendment of Rule 162 (Stage 2 Water Conservation)

District Rule 162 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 162 STAGE 2 WATER CONSERVATION

- A. Stage 2 Water Conservation is defined as the second stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use from the MPWRS below regulatory constraints by requiring implementation of ~~landscape w~~**Water b**Budgets for large irrigators of three acres or more, large residential water users and water users with dedicated landscape water meters.
- B. Stage 2 Water Conservation shall be enforced when Cal-Am production from the MPWRS has exceeded the year-to-date at month-end target as displayed in Table 1; ~~and Cal-Am unaccounted for water uses are at or below an average of seven (7) percent for the most recent twelve-month period.~~

~~Prior to implementation of Stage 2 Water Conservation, the General Manager shall review the Cal-Am unaccounted for water uses in the MPWRS and shall determine that unaccounted for water uses are at or below an average of seven percent for the most recent twelve month period. In the event unaccounted for water uses exceed seven percent, Cal-Am shall immediately submit a plan to the General Manager to reduce unaccounted for water uses and shall immediately act on such plan. The General Manager shall have the authority to delay implementation of Stage 2 Water Conservation for one month to allow Cal-Am sufficient time to correct unaccounted for water uses to achieve the year-to-date production at month-end target in the following month.~~

The monthly distribution of water production shown in Table 1 between sources in the Carmel River Basin and in the coastal subareas of the Seaside Groundwater Basin shall be approved by the Board of Directors as part of the Quarterly Water Supply Strategy and Budget process. The Board shall hold public hearings to consider the

water supply budgets for Cal-Am's main system during the Board's regular meetings in September, December, March, and June, at which time the Board may modify Table 1 by Resolution.

Table 1
REGULATORY WATER PRODUCTION TARGETS
FOR CALIFORNIA AMERICAN WATER MAIN SYSTEM FROM SOURCES
WITHIN THE MONTEREY PENINSULA WATER RESOURCES SYSTEM

<i>Month</i>	<i>Monthly Target</i>	<i>Year-to-Date At Month-End Target</i>
<i>October</i>	<i>1,379</i>	<i>1,379</i>
<i>November</i>	<i>1,113</i>	<i>2,492</i>
<i>December</i>	<i>984</i>	<i>3,476</i>
<i>January</i>	<i>958</i>	<i>4,434</i>
<i>February</i>	<i>894</i>	<i>5,328</i>
<i>March</i>	<i>1,047</i>	<i>6,375</i>
<i>April</i>	<i>1,209</i>	<i>7,584</i>
<i>May</i>	<i>1,405</i>	<i>8,989</i>
<i>June</i>	<i>1,527</i>	<i>10,516</i>
<i>July</i>	<i>1,628</i>	<i>12,144</i>
<i>August</i>	<i>1,649</i>	<i>13,793</i>
<i>September</i>	<i>1,492</i>	<i>15,285</i>
<i>TOTAL</i>	<i>15,285</i>	

Table 1
REGULATORY WATER PRODUCTION TARGETS (AF)

Month	Carmel River Basin Trigger	Seaside Basin Target	Year-to-Date Production at Month-End Target
October	979	400	1,379
November	713	400	2,492
December	884	100	3,476
January	858	100	4,434
February	794	100	5,328
March	947	100	6,375
April	909	300	7,584
May	905	500	8,989
June	1,027	500	10,516
July	1,128	500	12,144
August	1,149	500	13,793
September	992	500	15,285
TOTAL	11,285	4,000	

- C. Requirements imposed by implementation of the Expanded Water Conservation and Standby Rationing Plan through Stage 1 Water Conservation shall remain in force. Requirements may be modified or superseded by actions taken in future stages of the Expanded Water Conservation and Standby Rationing Plan.
- D. Implementation of Landscape Water Budgets. All water users required to obtain a ~~Landscape wWater bBudget~~ in ~~Section 9-B~~ ***under District Rule 172*** are required to manage outdoor irrigation within the ~~Landscape wWater bBudget~~ assigned to the property.
- E. Water use in excess of the established ~~Landscape wWater bBudget~~ shall be considered Water Waste and shall be subject to ~~the Section 18 of this regulation~~ ***District Rule 171.***

- F. Sunset of Stage 2 Water Conservation. Without further action of the Board of Directors, the provisions of Stage 2 Water Conservation shall be rescinded and revert to Stage 1 Water Conservation upon compliance with the year-to-date at month-end production goal for the first two *consecutive* months of *in* the subsequent water year.
- G. Notice. *Cal-Am shall provide an annual reminder notice to MPWRS users with Landscape Water Budgets to report modifications in landscaping which could alter an existing budget.*
- H. Monthly Consumption Reports. *During any Stage 2, 3, 4, 5, 6, or 7, Cal-Am shall provide the District with monthly consumption reports in a format approved by the District. Reports shall be provided within fifteen (15) days of the close of the preceding month.*

Section Five: Amendment of Rule 163 (Stage 3 Water Conservation)

District Rule 163 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 163 STAGE 3 WATER CONSERVATION

- A. Stage 3 Water Conservation is defined as the third stage in the District's Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints. ***It is triggered when the year-to-date at month-end production target for Cal-Am from the MPWRS is exceeded twice by the average of Cal-Am's year-to-date production from the MPWRS for each month during the October through March period or exceeded once by the average of Cal-Am's year-to-date production from the MPWRS for each month during the April through September period. It provides a procedure to enable emergency temporary increases in the upper block volume rates and requires increased action by Cal-Am to reduce unaccounted-for water and monthly reporting of actions taken. Stage 3 Water Conservation may also be triggered upon Resolution of the Board of Directors when there is a need for an immediate water use reduction in response to an unexpected water production increase.***

~~Prior to~~ ***Upon*** implementation of Stage 3 Water Conservation, ~~the General Manager shall review the Cal-Am unaccounted for water uses in the MPWRS and shall determine that unaccounted for water uses are at or below an average of seven percent for the most recent twelve month period. In the event unaccounted for water uses exceed seven percent, Cal-Am shall immediately submit a plan to the General Manager to reduce unaccounted for water uses~~ ***to seven (7) percent or less measured by the most recent twelve-month rolling average*** and shall immediately act on such plan. ***Cal-Am shall provide a progress report to the Board of Directors monthly until Stage 3 is sunset.*** ~~The General Manager shall have the authority to delay implementation of Stage 3 Water Conservation for one month to allow Cal-Am sufficient time to correct unaccounted for water uses to achieve the year-to-date production at month-end target in the following month.~~

- B. Regulatory Trigger. Stage 3 Water Conservation shall be enforced when *any of the following criteria has been met: 1) the average of Cal-Am's year-to-date production from the MPWRS for each month has exceeded the year-to-date at month-end production target for Cal-Am from the MPWRS as displayed in Table 1 for a second time during the period from October 1 through March 31 in any water year, or 2) the average of Cal-Am's year-to-date production from the MPWRS for each month has exceeded the year-to-date at month-end production target for Cal-Am from the MPWRS as displayed in Table 1 once during the period from April 1 through September 30 in any water year, or 3) a Resolution has been adopted by the Board in accord with Section C below* and Cal-Am unaccounted for water uses in the MPWRS are at or below an average of seven percent for the most recent twelve month period.
- C. Emergency Trigger. Stage 3 Water Conservation shall be implemented upon Resolution of the Board of Directors when there is need for an immediate water use reduction requirement in response to an unexpected water production increase.
- ~~C.~~ D. Sunset of Stage 3 Water Conservation. Without further action by the Board of Directors, the provisions of Stage 3 Water Conservation shall be rescinded upon compliance with the year-to-date at month-end production goal for the first two consecutive months of in the subsequent water year. Water users of Cal-Am when that water system derives water from the MPWRS shall revert to Stage 1 Water Conservation.
- (a) Regulatory compliance during a period of Stage 4 Water Rationing shall not cause a sunset of this provision.
- ~~D.~~ E. Notice. Cal-Am shall provide notice of mandatory water conservation with each bill prepared for water users of the Cal-Am system.
- E. Cal-Am Excessive Use Rates. Section 12-E requires approval by the Public Utilities Commission (PUC) prior to implementation.
- ~~1.~~ Cal-Am shall use the ECU factor of each water user for computation of the base water rate block and the related base use.
 - ~~2.~~ Excessive use rates shall be applied to water use over 150 percent of the base use.
 - ~~3.~~ Excessive use rates shall be established by multiplying the base block rate of rate blocks 4 and 5 of Cal-Am's per-capita-based rate tariff by 400 percent. The difference between the base rate for rate block 4 and 5, and the 400 percent excessive use rate shall be the actual excessive use rate and shall be designated separately from the standard water rate billing.
 - ~~4.~~ In the event that excessive use rates are not authorized by the California Public Utilities Commission, the base use shall become a base ration and use above the base rate shall be considered non-essential water use.
- F. Cal-Am Emergency Use Rates. Cal-Am shall implement the California Public Utilities Commission (CPUC) approved emergency rate schedule to respond to Stage 3 water reduction requirements. Cal-Am shall file an Advice Letter with the CPUC to

implement Emergency Use Rates, however, only after it has first met and conferred with the District at least five days in advance of that filing. The General Manager may waive this time period for good cause.

F. ~~Cal-Am Use Prior to PUC Approval of Excessive Use Rates.~~

- ~~1. Upon implementation of Stage 3 Water Conservation, the District shall consider water use above the Cal-Am base rate to be non-essential water use subject to enforcement under Rule 171 (Water Waste Fees).~~
- ~~2. Cal-Am shall provide monthly information with the water bill showing the responsible party's compliance with the base rate.~~

Section Six: Amendment of Rule 164 (Water Rationing)

District Rule 164 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 164 STAGE 4 WATER RATIONING

[NOTE: No changes are proposed to Section A.]

B. Trigger.

1. Water Supply Limitation Trigger. Stage 4 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 4 Water Rationing shall become effective on ~~July~~ ***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 MPWRS on May 1 is less than ~~31,580~~ ***27,807*** acre-feet and greater than ~~24,750~~ ***21,802*** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on May 1, no water rationing shall be imposed.

[NOTE: No changes are proposed to Sections B 2 through D.]

E. Sunset of Stage 4 Water Rationing.

1. Water Supply Availability. Stage 4 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than ~~31,580~~ ***27,807*** acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 4 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on January 1.
2. In the event total usable storage is greater than ~~31,580~~ ***27,807*** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 4 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's

year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections E 3 or F.]

Section Seven: Amendment of Rule 165 (Stage 5 Water Rationing)

District Rule 165 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 165 STAGE 5 WATER RATIONING

[NOTE: No changes are proposed to Section A.]

B. Implementation.

1. Water Supply Limitation Trigger. Stage 5 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 5 Water Rationing shall become effective 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 MPWRS on May 1 is less than 24,750 ~~21,802~~ acre-feet and greater than ~~17,720~~ ***15,615*** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on May 1, no water rationing shall be imposed.
 - a. The General Manager may delay implementation of Stage 5 Water Rationing to ensure adequate operation of the program. Delays authorized by the General Manager shall not exceed 90 days.
2. Emergency. Implementation shall also occur following urgency action by Resolution of the Board of Directors declaring that an emergency situation exists and immediate 20 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.

C. Sunset of Stage 5 Water Rationing.

1. Water Supply Availability. Stage 5 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than 24,750 ~~21,802~~ acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 5 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ ***27,807*** acre-feet on January 1.
2. In the event total usable storage is greater than ~~31,580~~ ***27,807*** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 5 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

- a. If Cal-Am production exceeds the year-to-date at month's end production goal as shown in Rule 162, Table 1, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections D through K.]

- L. Establishing the Rations. Rations for each user category shall be determined by the General Manager by dividing the reduced available production by the percentage of use. The percentage of use for each user group shall be determined by the most recent unrationed reporting year (July 1 through June 30) data provided by Cal-Am for water users of that portion of Cal-Am that derives water from the MPWRS, and by data provided by the District from its annual well reporting program for non-Cal-Am distribution systems.

[NOTE: No changes are proposed to Sections L-1 through L-8.]

- 9. Reclaimed Recycled Water Users. ~~Golf courses and open spaces receiving water~~ ~~Golf courses and open spaces~~ *Recycled Water Irrigation Areas* receiving water from the CAWD/PBCSD Wastewater Reclamation Project shall be subject to Stages 5 Water Rationing and higher as a separate group ~~due to~~ *for potable water used during an interruption or emergency, in accordance with contractual agreements with* ~~between the District and the respective owners of the Recycled Water Irrigation Areas.~~ Under the agreements, the owners of the Reclamation Project golf courses and open spaces shall have the irrigation requirements of the courses and open spaces satisfied to the same degree as any non-Reclamation Project golf course or open space which derive their source of supply from the Cal-Am system. The irrigation requirements of the Reclamation Project courses and open spaces will be determined based on the most recent non-rationed four-year average water demand for each of the reclaimed water users. The irrigation requirements shall include both reclaimed and potable water. The use of reclaimed water, when available, shall not be restricted by this requirement.

~~Each reclaimed water user shall be entitled to receive the average irrigation requirement determined above, reduced by the percentage reduction required by the current stage of rationing. If the quantity of reclaimed water that is available is less than the quantity of water that the reclaimed water user is entitled to, potable water shall be provided to make up the difference and satisfy the reclaimed water user to the same degree that non-Reclamation Project golf course and open space users are being satisfied.~~

~~The District shall ensure that the water provided during reduction water rationing is of adequate quality. If the quality does not satisfy the contractual agreement, potable water sufficient to improve the quality of the reclaimed water shall be provided.~~

- a. Before Project Expansion Is Completed. *Under the agreements operative before the Project Expansion is Completed (as the capitalized terms are defined in Rule 23.5), the owners of the Recycled Water Irrigation Areas shall have the respective irrigation requirements thereof satisfied to the same degree as any non-Project golf course or open space which derive*

their source of supply from the Cal-Am system. The irrigation requirements of the Recycled Water Irrigation Areas will be determined based on the most-recent non-rationed four-year average irrigation water demand, including both Recycled Water and potable water, for each Recycled Water Irrigation Areas. The use of Recycled Water, when available in sufficient quantities to satisfy the irrigation requirements of the Recycled Water Irrigation Areas, shall not be restricted by this requirement.

Each Recycled Water Irrigation Area shall be entitled to receive the average irrigation requirement determined above, reduced by the percentage reduction required by the current stage of rationing. If the quantity of Recycled Water that is available is less than the quantity of water that the Recycled Water Irrigation Area is entitled to, potable water shall be provided to make up the difference and satisfy the irrigation requirements of the Recycled Water Irrigation Area to the same degree that the irrigation requirements of non- Project golf course and open space users are being satisfied.

The District shall ensure that the water provided during water rationing is of adequate quality. If the quality does not satisfy the contractual agreement operative before the Project Expansion is deemed Completed (as the capitalized terms are defined in Rule 23.5), potable water shall be provided in sufficient quantities to improve the quality of the reclaimed water.

This Subsection L.9.a shall cease to be operative once the Project Expansion is deemed to be Completed (as the capitalized terms are defined in Rule 23.5), and shall thereafter be of no force or effect.

- b. When Project Expansion Is Completed. Under the agreements operative once the Project Expansion is deemed Completed (as the capitalized terms are defined in Rule 23.5), the owners of the Recycled Water Irrigation Areas shall have the respective irrigation requirements thereof satisfied to the same degree as any non-Project golf course or open space which derives its source of supply from the Cal-Am system. The irrigation requirements of the Recycled Water Irrigation Areas will be determined based on the most-recent non-rationed four-year average irrigation water demand, including both Recycled Water and potable water, for each respective Recycled Water Irrigation Area.*

Each Recycled Water Irrigation Area shall be entitled to receive the average irrigation requirement determined above, reduced by the percentage reduction required by the current stage of rationing. If the quantity of Recycled Water that is available is less than the quantity of water that the Recycled Water Irrigation Area is entitled to, potable water shall be provided to make up the difference and satisfy the irrigation requirements of the Recycled Water Irrigation Areas to the same degree that the irrigation requirements of non-Project golf course and open space users are being satisfied.

The preceding sentence shall not apply to the extent that the irrigation requirements of any Recycled Water Irrigation Area are met with water legally available to Buyer from any source other than the Carmel River System or the Seaside Groundwater Basin, including percolating ground water underlying Buyer's Property, to make up any such difference.

When Recycled Water (as defined in Rule 23.5) is available in sufficient quantities to satisfy the irrigation requirements of the Recycled Water Irrigation Areas, such irrigation shall not be subject to Stages 5 Water Rationing and higher, and neither potable water nor any water described in the preceding sentence (whether or not it is potable) shall be used for irrigation of the Recycled Water Irrigation Areas except to the extent allowed in the circumstances described in the next two sentences.

If there is an Interruption in Recycled Water deliveries to any Recycled Water Irrigation Area (as the capitalized terms are defined in Rule 23.5), the temporary use of potable water for irrigating each such Recycled Water Irrigation Area is authorized in the manner described in Rule 23.5, Subsection F.

If MPWMD has adopted an ordinance in response to any emergency caused by drought, or other threatened or existing water shortage pursuant to section 332 of the Monterey Peninsula Water Management Law, said ordinance shall prevail over contrary provisions of this Rule. Notwithstanding the preceding sentence, potable water shall be made available for irrigating tees and greens of the Recycled Water Irrigation Areas in sufficient quantities to maintain them in good health and condition during an Interruption, without any limitation on the duration.

The District shall have no obligation to furnish potable water for irrigation of the Recycled Water Irrigation Areas except in the circumstances set forth above in this Subsection L.9.b.

If (1) an emergency or major disaster is declared by the President of the United States, or (2) a "state of war emergency," "state of emergency," or "local emergency," as those terms are respectively defined in Government Code section 8558, has been duly proclaimed pursuant to the California Emergency Services Act, with respect to all or any portion of the territory of MPWMD, the provisions of this Subsection L.9.b shall yield as necessary to respond to the conditions giving rise to the declaration or proclamation.

This Subsection L.9.b shall be of no force or effect until the Project Expansion is deemed Completed (as the capitalized terms are defined in Rule 23.5), and shall thereafter be operative and of full force and effect.

Section Eight: Amendment of Rule 166 (Stage 6 Water Rationing)

District Rule 166 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 166 **STAGE 6 WATER RATIONING.**

[NOTE: No changes are proposed to Section A.]

B. Implementation.

1. Water Supply Limitation Trigger. Stage 6 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 6 Water Rationing shall become effective 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 MPWRS on May 1 is less than ~~17,720~~ **15,615** acre-feet and greater than ~~10,890~~ **9,610** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ **27,807** acre-feet on May 1, no water rationing shall be imposed.
2. Implementation shall also occur following urgency action by Resolution of the Board of Directors declaring that an emergency situation exists and immediate 35 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.

C. Sunset of Stage 6 Water Rationing.

1. Water Supply Availability. Stage 6 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than ~~17,720~~ **15,615** acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 6 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ **27,807** acre-feet on January 1.
2. In the event total usable storage is greater than ~~31,580~~ **27,807** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 6 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections D through P.]

Section Nine: **Amendment of Rule 167 (Stage 7 Water Rationing)**

District Rule 167 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 167 **STAGE 7 WATER RATIONING**

[NOTE: No changes are proposed to Section A.]

B. Implementation.

1. Water Supply Limitation Trigger. Stage 7 Water Rationing shall apply to all water users whose source of supply is derived from the MPWRS. Stage 7 Water Rationing shall become effective on ~~July~~ **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 MPWRS on May 1 is less than ~~10,890~~ **9,610** acre-feet. If total usable storage is equal to or greater than ~~31,580~~ **27,807** acre-feet on May 1, no water rationing shall be imposed.
2. Implementation shall also occur following urgency action by Resolution of the board of Directors declaring that an emergency situation exists and immediate 50 percent reductions in water use from a distribution system's production limit are necessary to ensure public health, safety or welfare.

C. Sunset of Stage 7 Water Rationing.

1. Water Supply Availability. Stage 7 Water Rationing shall continue to have force and effect until rescinded by Resolution of the Board of Directors upon a determination that the total usable storage in the MPWRS is greater than ~~10,890~~ **9,610** acre-feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 7 Water Rationing as early as the following January Board meeting can be made if the total usable storage in the MPWRS is equal to or greater than ~~31,580~~ **27,807** acre-feet on January 1.
2. In the event total usable storage is greater than ~~31,580~~ **27,807** acre-feet, the General Manager shall review Cal-Am's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table 1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 7 Water Rationing, water users shall revert to Stage 1 Water Conservation. If Cal-Am's year-to-date production exceeds the year-to-date goal specified in Table 1 of Rule 162, Cal-Am water users shall revert to Stage 2 Water Conservation.

[NOTE: No changes are proposed to Sections D through N.]

Section Ten: Amendment to Rule 169 (Water Rationing Variance)

District Rule 169 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 169 WATER RATIONING VARIANCE

[NOTE: No changes are proposed to Sections A through C 1.]

- C. No Variance. The following categories of water use shall not qualify for special consideration under the provisions of this regulation:
 2. Irrigation, other than variances allowed by ~~Section 19-B~~ ***Rule 169*** of this regulation.

[NOTE: No changes are proposed to Sections C 3 through D.]

Section Eleven: Amendment of Rule 170 (Water User Survey)

District Rule 170 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 170 WATER USE SURVEY

[NOTE: No changes are proposed to Sections A through C.]

D. Reporting.

1. Responsibility of Water User.

- a. Each responsible party shall be responsible for accurately reporting the number of permanent residents in the dwelling unit or units or other information deemed appropriate for the effective operation of the program as requested on the survey form.
- b. Upon activation of a water meter, each responsible party shall complete a survey form.
 - i. Cal-Am Water Users. The completed survey form shall be submitted to Cal-Am by customers of that distribution system.
 - ii. Non-Cal-Am Water Users. The completed survey form shall be submitted to the District or its agent by all other distribution systems users required to complete a survey form during Stage 5 Water Rationing through Stage 7 Water Rationing.
- c. All responsible parties shall submit revised survey forms whenever there is a change in the number of permanent residents in a residential dwelling unit or whenever there is a change in a water user category in non-residential uses. Revised survey forms should be submitted to the appropriate party as indicated in ~~Section 8~~ ***Rule 170***, D, 1, b.
- d. Property owners of short-term residential housing rentals shall provide information about the average number of annual occupants and the average rate of occupancy to the appropriate party as indicated in ~~Section 8~~ ***Rule 170***, D, 1, b.
- e. **2. Misrepresentation Violation.** Any water user intentionally over-reporting the number of permanent residents in a dwelling unit or other information pertinent to establishing a water ration during Stages 4, 5, 6 and 7 Water Rationing may be charged with a misdemeanor punishable as an infraction as provided by Section 256 of the Monterey Peninsula Water Management District Law, Statutes of 1981, Chapter 986. Violations carry a maximum penalty of up to \$250 for each offense. Each separate day or portion thereof during which any violation occurs or continues without a good-faith effort by the responsible water user to correct the violation, may be deemed to constitute a separate offense, and upon conviction thereof, may be separately punishable.

3. Penalties for Misreporting. In addition to any charge for misrepresenting information as provided in ~~Section 8~~ **Rule 170**, D-2, any or all of the following may be further imposed by the General Manager or his agent during Stages 4, 5, 6 and 7 Water Rationing where the violation occurs and continues without a good-faith effort by the responsible water user to correct the violation. Decisions pursuant to this rule are appealable under Rule 70 (Appeals).
 - a. Intentional misrepresentation may be considered a violation of the water waste provisions and shall subject the water user to a fee for water waste; and/or
 - b. Intentional misrepresentation may cause the loss of any water bank accrued and shall cause the responsible party to be ineligible to accrue a water bank for a period of sixty (60) months; and/or
 - c. Intentional misrepresentation may cause the assignment of a reduced water ration that may be as low as a ration for one person for a period of twelve (12) months following implementation of Stages 4, 5, 6 or 7 Water Rationing.
4. Audit. The District may periodically audit the survey data for accuracy. Upon question, the District may request additional evidence of residency to demonstrate the number of permanent residents at that site as defined in Rule 11 (Definitions).

Section Twelve: Amendment of Rule 171 (Water Waste Fees)

District Rule 171 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 171 WATER WASTE FEES

- A. Each occurrence of Water Waste or Non-Essential Water Use, as those terms are defined by Rule No. 11 (Definitions), which continues after the water user has had reasonable notice to cease and desist that type of water use shall constitute a flagrant occurrence.
- B. A \$50 fee ***per day or portion thereof*** shall be assessed for each flagrant occurrence of Water Waste or Non-Essential Water Use. ***The fee shall accumulate daily until the occurrence is corrected.***
- C. A \$150 fee ***per day or portion thereof*** shall be imposed for each subsequent occurrence (including multiple occurrences) of Water Waste or Non-Essential Water Use which occurs within 18 months of the first occurrence. ***The fee shall accumulate daily until the occurrence is corrected.***
- D. All fees shall be paid within 30 days.
- E. Within the 30 day period, a water user may seek waiver or forgiveness of all or part of the Water Waste fees on the basis of hardship. The water user must provide the District with a written explanation as to why the fees should not be collected. Staff shall be authorized to determine whether or not fees should be waived in full or in part, with the final decision resting with the General Manager.

- F. After 30 days, fees which have not been paid or waived may result in a lien being placed on the property served by the water account.
- G. Repeated occurrences or Water Waste or Non-Essential Water Use, which continue or occur after the water user has had a reasonable notice to cease and desist that type of water use, or which continues or occurs after the water user has had a reasonable opportunity to cure any defect causing that type of water use, shall provide cause for the placement of a flow restrictor within the water line or water meter.
- H. *Decisions pursuant to this rule are appealable under Rule 70 (Appeals).*

Section Thirteen: Amendment of Rule 172 (Landscape Water Audits)

District Rule 172 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 172 LANDSCAPE WATER AUDITS

- A. Landscape ~~Water~~ ***Audits*** shall be conducted ***under the supervision of an individual who has been certified by the Irrigation Association to conduct audits and establish Landscape Water Budgets*** during Stage 1 Water Conservation by the District and/or Cal-Am or their designated agent(s). Each ***audit shall be signed by that person, who shall attest that the audit was performed under his/her direction.*** ~~party is authorized to conduct audits and establish water budgets for all dedicated irrigation meters, large irrigated areas over three acres, and large residential water users supplied by Cal-Am when that system derives its source of supply from the MPWRS. Landscape Water Audits shall be completed within 180 days of implementation of Stage 1 Water Conservation.~~
- B. Landscape ~~Water~~ ***Audits and Landscape Water Budgets*** shall be offered by the District and/or Cal-Am or their agent free of charge to all water users of Cal-Am with dedicated landscape meters, large irrigated areas over three acres, and large residential water users. Water use records shall be reviewed annually to identify new water users required to establish a ~~Landscape~~ ***Water*** ~~Budget~~ ***Budget*** by this ~~Section rule~~. Cal-Am shall provide the District with data on ***copies of*** all completed ***Landscape Water Audits and Landscape Water Budgets***.
 - 1. Cal-Am water users shall be required to obtain ~~Landscape~~ ***Water*** ~~Audits~~ and establish ***Landscape Water*** ~~Budgets~~ if the property:
 - a. Has a dedicated landscape water meter; or
 - b. Is an irrigated area of greater than three acres; or
 - c. Is a large residential water user.
 - 2. All Landscape Water ~~Auditors~~ ***Budgets*** must be approved by the Monterey Peninsula Water Management District ***prepared by an individual certified by the Irrigation Association.***

3. All water users required to complete a ~~Landscape~~ **Water** ~~Audits~~ and establish a ~~Landscape~~ **Water** ~~Budgets~~ shall have the option of obtaining a ~~Landscape~~ **Water** ~~Audit~~ and ~~Landscape~~ **Water** ~~Budget~~ from an approved Landscape ~~Water~~ **Irrigation** Auditor of their choice at their own expense *if the auditor is certified by the Irrigation Association.*
 4. Landscape ~~Irrigation~~ **Water** Audits not conducted by the District and/or Cal-Am shall be reported on a Landscape Water Budget Application. Landscape Water Budget Applications shall be submitted to the District ~~Cal-Am~~ within ~~180 days of the implementation of Stage 1 Water Conservation.~~ *Cal-Am shall forward a copy to the District within ten (10) days.* Landscape ~~Water~~ **Audits** not performed by the District or Cal-Am ~~is~~ **are** subject to review and acceptance by the District. ~~Landscape~~ **Water** Audits and ~~Landscape~~ **Water** ~~Budgets~~ rejected by the District may be appealed to the Board of Directors pursuant to Rule 70 (Appeals).
 5. Landscape Irrigation Auditors shall arrange on-site visits to compile water records, to review historic use, measure irrigated sites, identify plant materials by general groups, determine irrigation water requirements, *and* estimate potential dollar and water savings. Landscape Irrigation Auditors shall also develop system testing strategies, check pressure and flow rates, and conduct water application distribution tests. Data shall be collected to determine irrigation uniformity and efficiency. Soil samples shall be examined to determine soil types and root zone depths. Landscape Irrigation Auditors shall observe system operations, locate irrigation zones, prepare site audit maps and visually identify broken or misaligned equipment. All data from field tests shall be summarized and this information used to generate monthly irrigation base schedules. A copy of the Landscape Water Budget Application shall be provided to the water user. One copy of the Landscape Water Budget Application shall be submitted to the District ~~Cal-Am.~~ *Cal-Am shall forward a copy to the District within ten (10) days.*
 6. Cal-Am shall provide quarterly compliance status notices to each water user required to follow a mandatory ~~Landscape~~ **Water** ~~Budget.~~
- C. Modifications To Audited Landscapes. Following significant modification to an existing audited landscape, a new ~~Landscape~~ **Water** ~~Audit~~ shall be conducted to establish an appropriate ~~Landscape~~ **Water** ~~Budget.~~ It shall be the responsibility of the property owner to ensure that a ~~Landscape~~ **Water** ~~Audit~~ is conducted within 60 days of any such change and to submit a *new* Landscape Water Budget Application to Cal-Am.
- D. Reporting and Analysis. Cal-Am shall preserve water use records and budgets for water users subject to this provision of law for such time as the Expanded Water Conservation and Standby Rationing Plan remains effective. Updated ~~Landscape~~ **Water** ~~Budgets~~ shall supersede previous data. Quarterly, a report shall be compiled by Cal-Am and provided to the District showing the account information and comparing the ~~Landscape~~ **Water** ~~Budget~~ with actual consumption. *During Stages 2 and 3, Cal-Am shall provide the District with monthly consumption reports for all customers with Landscape Water Budgets.*

E. Landscape Irrigation Restrictions in the Cal-Am system that derives its source of supply from the MPWRS. Unless watering is by drip irrigation, through a hand-held hose with a positive action shut-off nozzle, or performed by a professional gardener or landscaper, the following schedule shall apply:

1. Odd Numbered Properties shall water after 5 p.m. or before 9 a.m. on Saturdays and Wednesdays only. This schedule shall also apply to properties located on the South or West 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 on the North or East side of the street in cities where no street address is available.

Section Fourteen: Amendment of Rule 175 (Water Rationing Enforcement)

District Rule 175 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 175 WATER RATIONING ENFORCEMENT

A. Enforcement During Stages 4 through 7 Water Rationing.

1. Courtesy Notice. For the first instance of excess water use beyond the ration in Stages 4 through 7 Water Rationing, a water user shall be given written notice by the water system operator of the excess use and shall be notified that such violation constitutes water waste and a water waste fee of \$50 ***per day*** shall be collected in the event the water user again exceeds that user's water ration during any future billing cycle under Stages 4 through 7 Water Rationing. If the water user complies with all water rationing and water waste and non-essential water use requirements during the next month following the first instance of excess use, the excess use fee shall be deferred.

If the water user again exceeds that user's water ration during any following month, the water waste fee of \$50 ***per day*** shall be imposed immediately ***and shall accumulate daily until the occurrence is corrected.***

2. Second Offense. Upon the second occurrence of excess water use (including any prior excess water use during any prior stage) a water user shall be charged with water waste and assessed a fee of \$150 ***per day*** for the second offense, plus the previously deferred \$50 first offense fee, by the District or its agent. ***The \$150 fee shall accumulate daily until the occurrence is corrected.***

3. Third Offense.

a. A third occurrence of excess water use (including any prior excess water use during any prior stage) shall result in an excess water use charge equivalent to the Cal-Am per unit water charge at the water user's level of use multiplied by the number of units over a water ration, plus \$150 ***per day*** as provided in Rule 171 (Water Waste Fees). A third occurrence of excess water use shall provide cause for the installation of a flow restrictor in the

water meter or water supply providing water to the property where the over-use occurred. Restrictors shall remain in place until conditions are reduced to Stage 2 Water Conservation or a less restrictive stage. All costs for the installation and removal of a flow restrictor shall be charged to the property owner of the site subjected to this action.

4. Fourth Offense. A fourth occurrence of water use in excess of the water ration shall result in fees and charges listed for a third offense and shall result in the installation of a flow restrictor by the system operator in the water meter or water supply providing water to the property where the over-use occurred. Restrictors shall remain in place until conditions are reduced to Stage 3 Water conservation or to a less restrictive stage. All costs for the installation and removal of a flow restrictor shall be charged to the property owner of the site subjected to this action.
- B. Flow Restrictor Exemption. Exemptions to the installation of a flow restrictor as a means to enforce the water ration shall occur when there are provable risks to the health, safety and/or welfare of the water user. *The following An exemption shall be made for water meters serving three or more multi-family dwelling units by substituting an excess water use charge of \$150 times the number of dwelling units located on the meter during each month in which a violation of the water ration occurs. The responsible party shall be liable for payment of all excess water use charges.* ~~apply in the event a flow restrictor cannot be installed in the water meter or water supply providing water to a property due to health, safety or welfare requirements;~~
 1. ~~Water Meters Serving Three or More Multi-Family Dwelling Units. The responsible party shall be charged \$150 times the number of dwelling units located on the meter during each month in which a violation of the water ration occurs. The responsible party shall be liable for payment of all excess water use charges.~~
- C. All notices and assessments of water waste and/or excess water use charges made by a water distribution system operator shall be reported to the District.

Section Fifteen: 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***).

~~Excessive~~ ***Emergency*** Use Rates – “~~Excessive~~ ***Emergency*** Use Rates” shall mean a higher block water rate used by Cal-Am during Stage 3 Water Conservation as a mechanism to discourage excessive water use.

Estimated Applied Water – “***Estimated Applied Water***” shall mean a projection of the amount of water that should be supplied to a landscape by the irrigation system, as measured by a water meter. For new or existing sites, ***Estimated Applied Water*** can be calculated using estimates for plant water use, effective rainfall (if desired), and irrigation system efficiency.

Irrigation Association – “***Irrigation Association***” shall mean the non-profit entity located at 6540 Arlington Boulevard, Falls Church, VA 22042-6638 USA, its successors and assigns. The Irrigation Association provides technical information related to irrigation services and offers professional training and certification to irrigation technicians in the public and private sectors.

Landscape Irrigation Auditor – “Landscape Irrigation Auditor” shall mean a person ~~approved~~ **certified** by the ~~Monterey Peninsula Water Management District~~ **Irrigation Association** to perform ~~Landscape~~ **Water** ~~a~~ Audits and assign **Landscape** ~~Water~~ **b** Budgets.

Landscape **Water** Audit – “Landscape **Water** Audit” shall mean an action taken by a ~~District-approved~~ **Landscape** ~~Irrigation~~ **a** Auditor **certified by the Irrigation Association** to determine reasonable outdoor water use.

Landscape Water Budget – “Landscape Water Budget” shall mean a maximum annual water allowance in gallons per year, determined upon completion of a ~~Landscape~~ **Water** ~~a~~ Audit by a ~~District-approved~~ Landscape Irrigation Auditor **certified by the Irrigation Association**. The Landscape Water Budget shall take into consideration the types of plants, soil condition, evapotranspiration rates and irrigation system.

Maximum Applied Water Allowance – “***Maximum Applied Water Allowance***” shall mean the calculated “not-to-exceed” limit of annual applied water excluding rainfall for a mature landscaped area. Calculations recommended by the Irrigation Association shall be used to determine the maximum usage permitted for a site.

Stage 3 Water Conservation – “Stage 3 Water Conservation” shall mean the third stage in the District’s Expanded Water Conservation and Standby Rationing Plan that takes action to maintain Cal-Am water use in the MPWRS below regulatory constraints and to respond to potential drought or emergencies by imposing ~~higher water charges~~ **emergency use rates** ~~for excessive water use to encourage water reduction~~.

Stage 4 Water Rationing – “Stage 4 Water Rationing” is defined as the fourth stage in the District’s Expanded Water Conservation and Standby Rationing Plan that responds to a drought situation or emergency water supply shortage with a 15 percent reduction goal from system production limits for non-Cal-Am water users. Reductions are achieved by voluntary water use cutbacks in addition to ~~excessive~~ **emergency** use rates imposed during Stage 3 Water Conservation.

Section Sixteen: 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 Seventeen: Effective Date

This ordinance shall be given effect at 12:01 a.m. on the 30th day after it has been enacted on second reading.

Section Eighteen: Sunset

Upon modification of SWRCB Order No. 95-10, or at least every five years at the January meeting, beginning with the first review in January 2010, the Board of Directors shall hold a public hearing to consider whether or not the provisions of this ordinance shall be continued, modified, or rescinded.

Section Nineteen: Severability

If any section, sub-section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases may be declared invalid.

On motion by Director Pendergrass, and second by Director Edwards, the foregoing ordinance is adopted upon this 21st day of March, 2005, by the following vote:

AYES: Directors Edwards, Foy, Pendergrass and Potter

NAYS: Directors Lehman and Markey

ABSENT: Director Knight

I, David A. Berger, 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 21st day of March, 2005.

Witness my hand and seal of the Board of Directors this 22nd day of March, 2005.


David A. Berger, Secretary to the Board