



*Adopted on February 24, 2011 – Effective on March 26, 2011*

**ORDINANCE NO. 147**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AMENDING  
REGULATION XV, THE EXPANDED WATER CONSERVATION  
AND STANDBY RATIONING PLAN,  
TO IMPLEMENT WATER BANKING (ROLL-OVER UNUSED WATER RATION)  
IN STAGES 5 – 7 WATER RATIONING**

**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 both physical and legal circumstances which constrain the amount of water that is available to serve water users in the Monterey Peninsula area.
4. On July 6, 1995, the State Water Resources Control Board (SWRCB), in response to four complaints, issued Order No. WR 95-10 that found that the groundwater in the aquifer underlying and closely paralleling the Carmel River is water flowing in a subterranean stream and subject to the jurisdiction of the SWRCB.
5. SWRCB Order No. WR 95-10 also found that California American Water wells were drawing water from the subterranean stream associated with the Carmel River and had diverted an average of 10,730 acre-feet per year without a valid basis of right.
6. SWRCB Order No. WR 95-10 directed California American Water to reduce its average historical diversions from the Carmel River by 15% in Water Year 1996 and 20% in each subsequent water year until its unlawful diversions were terminated.
7. In Water Year 1997, California American Water's diversions from the Carmel River exceeded the limit specified in SWRCB Order No. WR 95-10 and the SWRCB issued an Administrative Civil Liability Complaint against California American Water.

8. On January 28, 1999, to enable compliance with SWRCB Order No. WR 95-10, the Water Management District adopted Ordinance No. 92 that established an Expanded Water Conservation and Standby Rationing Plan.
9. Since establishment of the Expanded Water Conservation and Standby Rationing Plan in 1999, California American Water has complied with the diversion limits specified in SWRCB Order No. WR 95-10 every year.
10. Ordinance No. 147 amends the Expanded Water Conservation and Standby Rationing Plan to reinstate Water Banking in Stages 5 through 7, Water Rationing. Water Banking was suspended by Ordinance No. 137 (December 8, 2008) until December 31, 2010, to allow California American Water time to upgrade its billing system to calculate and manage Water Banking. California American Water has stated that Water Banking has been implemented in its billing system.
11. The following District Rules shall be amended by this ordinance: Rule 165, Stage 5 Water Rationing; Rule 166, Stage 6 Water Rationing; Rule 167, Stage 7 Water Rationing; and Rule 168, Water Banks.
12. The action taken by adoption of this ordinance reinstates previously adopted rules that were suspended upon adoption of Ordinance No. 137 on December 8, 2008.
13. This ordinance is exempt from the California Environmental Quality Act (CEQA) under Water Code §10652. This ordinance is also exempt from the requirements of CEQA under the provisions of CEQA Guideline 15269 (c) and 15282 (v).

NOW THEREFORE be it ordained as follows:

## **ORDINANCE**

**Section One:            Short Title**

This ordinance shall be known as the 2011 Water Banking Amendment to the Expanded Water Conservation and Standby Rationing Plan of the Monterey Peninsula Water Management District.

**Section Two:            Purpose**

This ordinance amends the Expanded Water Conservation and Standby Rationing Plan to reinstate Water Banking provisions previously suspended by Ordinance No. 137.

**Section Three:            Amendment to Rule 165-G (Stage 5 Water Rationing)**

Rule 165-G shall be amended as shown below, with deleted language shown in ~~strikeout~~ type face.

G. NOTICE

1. California American Water shall provide written notice of mandatory water rationing to every Residential and Non-Residential Water User within the California American Water systems via first-class mail at least thirty (30) days before the first day Stage 5 water use restrictions are imposed.

During Stage 5, California American Water shall send monthly reminders of water rationing in the water bill along with information showing the User's Water Ration, the quantity of the Water Ration consumed, and the quantity of water available in the Water User's Water Bank (~~when Water Banking is available~~). Finally, California American Water shall update survey information as needed.

**Section Four: Amendment to Rule 166-G (Stage 6 Water Rationing)**

Rule 166-G shall be amended as shown below, with deleted language shown in ~~strikeout~~ type face.

G. NOTICE

1. California American Water shall provide written notice of mandatory water rationing to every Residential and Non-Residential Water User within the California American Water systems via first-class mail at least thirty (30) days before the first day Stage 6 water use restrictions are imposed.

During Stage 6, California American Water shall send monthly reminders of water rationing in the water bill along with information showing the User's Water Ration, the quantity of the Water Ration consumed, and the quantity of water available in the Water User's Water Bank (~~when Water Banking is available~~). Finally, California American Water shall update survey information as needed.

**Section Five: Amendment to Rule 167-F (Stage 7 Water Rationing)**

Rule 167-F shall be amended as shown below, with deleted language shown in ~~strikeout~~ type face.

F. NOTICE

1. California American Water shall provide written notice of mandatory water rationing to every Residential and Non-Residential Water User within the California American Water systems via first-class mail at least

thirty (30) days before the first day Stage 7 water use restrictions are imposed.

During Stage 7, California American Water shall send monthly reminders of water rationing in the water bill along with information showing the User's Water Ration, the quantity of the Water Ration consumed, and the quantity of water available in the Water User's Water Bank (~~when Water Banking is available~~). Finally, California American Water shall update survey information as needed.

**Section Six:           Amendment to Rule 168 -- Water Banks**

Rule 168 shall be amended as shown below, with deleted language shown in ~~strikeout~~ type face.

**RULE 168 - WATER BANKS**

~~Water Banks in the California American Water Distribution System(s) shall be suspended until: (a) California American Water completes the installation of a computer system and programming necessary to calculate Water Banking credits; or (b) MPWMD completes computer programming needed to calculate Water Banking credits; or (c) December 31, 2010, whichever event occurs first.~~

~~During the suspension of Water Banking, Water Users shall be excused the first time a Water Ration is exceeded in a Ration Year. Second and subsequent offenses shall be enforced as Water Waste.~~

- A. Water Banks shall be available to each Water User during Stages 5 through 7. A Water Bank shall allow each Water User to accrue the unused portion of a monthly Water Ration for use in the current Rationing Year.
- B. Water Banks shall be reset to zero on the first day of each Rationing Year. Ten (10) percent of the remaining Water Bank shall be credited to the following year's Water Bank for three months to allow the establishment of a new bank.
- C. The Water Bank shall be reduced on the first day of the fourth month of the Rationing Year by the amount of banked water carried over. Water Banks shall not carry a negative balance.

**Section Seven:           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 Eight:           Effective Date and Sunset**

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

This Ordinance shall not have a sunset date.

**Section Nine:            Severability**

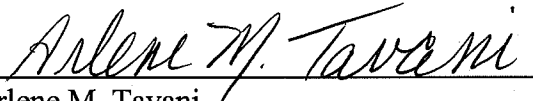
If any subdivision, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion by Director Pendergrass, and second by Director Doyle, the foregoing ordinance is adopted upon this 24th day of February, 2011, by the following vote:

AYES:            Directors Pendergrass, Doyle, Brower, Lehman, Markey and Potter  
NAYS:            None  
ABSENT:        None

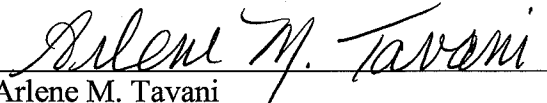
I, Arlene M. Tavani, Deputy Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted on the 24th day of February 2011.

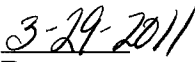
Witness my hand and seal of the Board of Directors this 29th day of March 2011.

  
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Arlene M. Tavani  
Deputy Secretary to the Board of Directors

**COPY CERTIFICATION**

I, Arlene M. Tavani, Deputy 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 Ordinance No. 147 duly adopted on the 24<sup>th</sup> of February, 2011.

  
Arlene M. Tavani  
Deputy Secretary to the Board of Directors

  
Date