

ORDINANCE NO. 96

**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 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 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 “Water Distribution System” and “Mobile Water Distribution System” in such a manner as to exempt from regulation certain small systems. District Rules 20, 22, 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.

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.
7. Several issues of concern have arisen respecting the fact that small water distribution systems and small mobile water distribution systems are exempt from the District's existing regulatory review. Among other matters, these concerns address (i) the cumulative impact that an increase of small systems can 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, and (vii) clear identification of water rights for those systems.
8. The SWRCB issued its Order No. WR 95-10 in 1995. This order, among other things, ruled that California-American Water Company (Cal-Am) did not have a legal right to take approximately sixty-nine (69) percent of the water currently supplied to Cal-Am users. The SWRCB set specific goals to reduce water diversions from the Carmel River Basin that, among other things, required Cal-Am to reduce its historical diversion from the Carmel River Basin to no more than 11,285 acre-feet per annum.
9. Since the issuance of SWRCB Order No. WR 95-10, there has been an increase of small water systems. Proposals have also been made to base development upon single source water systems, including single wells, desalination units, and by trucked-in water.
10. Several members of the public have requested that small water distribution systems and small mobile water distribution systems be included in the same process that the Water Management District uses to review creation and expansion of larger water systems.
11. The Water Management District board of directors has sought input from the Policy Advisory Committee and the public on the issue of regulating small water distribution systems and small mobile water distribution systems.
12. The 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 dated July 7, 2000.
13. 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.

14. This ordinance shall amend Rules 11, 20, 21, 22, 52, 54, 57, 60, 62, 63 and 173 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 Small Water System Regulation Ordinance of the Monterey Peninsula Water Management District. Separate, board-approved Implementation Guidelines will be developed to carry out this ordinance in an orderly and consistent manner.

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 expansion of small water distribution systems and small 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***).

ACTIVE WELL - An "active well" is a well that has been permitted by the Monterey County Health Department (or a well that was completed prior to year 1973) and constructed, and has produced any quantity of water within a Reporting Year (July 1 through June 30). All active wells must be registered, and must report water use annually to the District. All new wells must be metered, inspected and approved by the District, and must report annual production using the Water Meter Method, regardless of the amount of production. Refer to MPWMD Rules 52 through 59 for more information.

CARMEL VALLEY ALLUVIAL AQUIFER - The "Carmel Valley alluvial aquifer" is the water-bearing strata directly associated with the Carmel River. It was originally mapped by the U.S. Geological survey in 1984 and was adopted as the area within the jurisdiction of the SWRCB as described in Order WR 95-10 and large-scale maps available at the District

office. The map of the alluvial aquifer is subject to refinement over time based on updated hydrologic information. For applications that are located near the SWRCB jurisdiction boundary, where the nature of the water source is unclear, the MPWMD General Manager will determine whether the water source is within the alluvial aquifer based on well drilling logs and other available hydrologic data pertinent to the application.

CONTROVERSY - A "controversy" exists when (1) at least four Board members (or the hearing officer) at the public hearing on an application determine that additional water rights or other technical information is needed, based on the Board's own motion or in response to public agency concerns or to a request by any member of the public; or (2) a person or entity notifies the Board (or hearing officer) in writing, prior to or at the public hearing on the application, of concerns about the proposed system potentially harming use of his/her water rights and/or impairing his/her ability to supply water from an existing water system. Concerns must be based on factual evidence already in the record or introduced into the hearing record. The Board (or hearing officer) shall define what additional information is needed and will continue the public hearing until adequate information is received. An applicant, or any other hearing participant or any Board member, may appeal the decision of the hearing officer to the full Board pursuant to MPWMD Rule 70.

MOBILE WATER DISTRIBUTION SYSTEM - "Mobile Water Distribution System" means any mobile water supply process, including but not limited to trucked water, used for distribution of water from a source of supply to a user for utilization upon the user's property. ~~This definition shall not apply to systems furnishing domestic water to three or fewer parcels in the District serving three or fewer users.~~ *This definition shall not apply to deliveries of water by commercial companies in volumes less than or equal to 55 gallons per container.*

MULTIPLE-CONNECTION SYSTEM - A "multiple 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.

REACTIVATE A WELL - A reactivated well is an inactive well (defined as a well that has not used water for 364 days or more) for which a proper amended well registration form has been filed with the District.

REFURBISH A WELL - An active or inactive well is considered to be refurbished when the well casing, pump, motor or discharge pipes are repaired or replaced.

REPLACE A WELL - An active or inactive well is considered to be replaced when a new well is completed in a separate borehole, or when the same borehole is modified, such as by

deepening. A replacement well must be located on the same legal parcel as the original well, and may not be located in the riparian zone, as defined by District Rule 11, unless a river works permit has been applied for and issued by the District. The well that is being replaced must be abandoned and destroyed in conformance with local and state well regulations unless it serves as a properly constructed, maintained and registered monitor well.

SEASIDE COASTAL SUBAREAS - *The "Seaside coastal subareas" is the collective term that refers to the mapped hydrologic units known as the Southern Coastal Subarea, the Northern Coastal Subarea and the Fort Ord 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. For applications that are located near the mapped subarea boundary, where the nature of the water source is unclear, the MPWMD General Manager will determine whether the water source is within the subarea based on well drilling logs and other available hydrologic data pertinent to the application.*

SINGLE-CONNECTION SYSTEM - *A "single-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.*

SOURCE OF SUPPLY - *"Source of Supply" means the groundwater, surface water, or reclaimed water sources, or any other water resource where a person, owner or operator gains access by a water-gathering facility.*

WATER DISTRIBUTION SYSTEM - *"Water Distribution System" means all works within the District used for the collection, storage, transmission or distribution of water from the source of supply to the connection of a system providing water service to ~~any two or more~~ connections, including all water-gathering facilities and water-measuring devices but excluding the user's piping. In systems where there is a water meter at the point of connection, the term "Water Distribution System" shall not refer to the user's piping; in systems where there is no water meter at the point of connection, the term "Water Distribution System" shall refer to the user's piping.*

WATER-GATHERING FACILITY - *"Water-Gathering Facility" means any device or method, mechanical or otherwise, for the production of water from dams, groundwater, surface*

water, water courses, ~~or~~ reclaimed water sources, *or any other source of supply* within the Monterey Peninsula Water Management District, or a zone thereof. Water-gathering facilities shall include any water-production facility as defined in the Monterey Peninsula Water Management District Law. *This definition shall not apply to on-site cisterns that serve existing single-connection, residential situations where rainwater is captured for on-site landscape irrigation use.*

WELL CAPACITY TEST (AQUIFER PUMPING TEST) - A *“well capacity (aquifer pumping) test” is a continuous pumping test of a well to determine the expected reliable yield of the well. The test shall be conducted in the manner and form appropriate to the hydrogeologic setting of the well, as described in the Implementation Guidelines that accompany this ordinance.*

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 OR A MOBILE 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.*

Persons who hold a valid permit for construction and operation of such 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 ~~operated by a public utility~~, 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-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 180 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 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).

B. PERMITS TO EXPAND/EXTEND A WATER DISTRIBUTION SYSTEM

Before any person expands/extends a water distribution system *or any mobile water distribution system*, such person shall obtain a written permit from the District or the District's delegated agent, *as described in District Rules 23 and 24*. The addition of any connection *or any water-gathering facility* to a water distribution system and/or the intensification of use of an existing connection shall be deemed an expansion or extension of that system. Any change in use, size, location, or relocation of a connection or water-measuring device which may allow an intensification of use or increased water consumption, or any permit transfer pursuant to Rule 28 which may allow an intensification of use or increased water consumption, shall be deemed an expansion or extension of that system. A proper applicant for such an expansion/extension permit may be either the owner or operator of the water distribution system, the prospective user of the proposed connection as the real party in interest, or any agent thereof.

C. EXEMPTIONS FOR WATER DISTRIBUTION SYSTEM PERMIT

An MPWMD permit is not required for a single-connection water distribution system unless that system derives its source of supply from the Carmel Valley alluvial aquifer; from wells within 1,000 feet of that aquifer, or within 1,000 feet of Tularcitos, Hitchcock Canyon, Garzas, Robinson Canyon or Potrero Creeks, up to the limits of the Monterey Peninsula Water Resources System, as shown in the map provided in the Implementation Guidelines; and/or the Seaside coastal areas, defined in Section Three of this ordinance.

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. 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.

An MPWMD permit is not required for on-site cisterns that serve existing single-

connection, residential situations where rainwater is captured for on-site landscape irrigation use.

An MPWMD permit is not required for deliveries of water by commercial companies in volumes less than or equal to 55 gallons per container.

The District permit enables use of a water well or any other water distribution system component; the District permit is not needed simply to construct (but not use) the system components.

Section Five: Amendment of Rule 21 (Applications)

District Rule 21 A and Rule 21 B 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***). These amendments shall not affect any other paragraph of Rule 21.

RULE 21. APPLICATIONS

A. APPLICATION FOR PERMIT TO CREATE/ESTABLISH A WATER DISTRIBUTION SYSTEM

The applicant shall submit all of the following:

- (1) A completed written application in the manner and form prescribed by the *Implementation Guidelines* ~~General Manager~~; and.
- (2) Environmental information as required by *the California Environmental Quality Act (CEQA)* ~~the District Environmental Guidelines~~; and
- (3) *Zoning and land use designations for the property; Proof of identify* land use approvals which may be required for the proposed project by the municipal unit in which the proposed system would be located (i.e., tentative map, use permit, etc.), *or by other governmental agencies, consistent with state and local regulations that require proof of available water supply*; and
- (4) *Identify type of water right claimed to exist with each water-gathering facility and each source of supply for the system (e.g., riparian, pre-1914, appropriative, overlying or other). Provide written verification of legal water rights applicable to type of right claimed. The verification shall include, but shall not be limited to the following forms of documentation: (a) Condition of Title Report, prepared by a Title Company at the applicant's expense, and any and all supporting*

documentation to indicate whether legal water rights have been subordinated or severed; this documentation may include a judicial declaration of right or a full title opinion prepared by an attorney with expertise in water law; (b) information that describes the legal basis or authority for diversion and extraction of water; (c) if groundwater is being pumped from a groundwater basin that has not been adjudicated, a statement to that effect in addition to a copy of the current deed to the property is sufficient documentation to satisfy this requirement; or (d) if the source of the water is subject to permit requirements under the State Water Resources Control Board, a copy of the SWRCB water rights permit or domestic registration must be included; and

- (5) A copy of the application submitted to the Monterey County Environmental Health Department for Creation of a Water Distribution System; and
- (6) The name and address of each responsible party; and
- (7) The results of a *well capacity (aquifer pumping) tests for the duration specified by the Implementation Guidelines*, the cost of which *tests* shall be borne by the applicant, and which shall be observed by a District representative or agent; and
- (8) *The results of water quality tests as specified by the Implementation Guidelines, the cost of which test shall be borne by the applicant; and*
- (9) The applicable fees prescribed in Rule 60.

B. APPLICATION FOR PERMIT TO EXTEND/EXPAND A WATER DISTRIBUTION SYSTEM

The applicant shall submit all of the following:

- (1) A completed written application in the manner and form prescribed by the *Implementation Guidelines* General Manager; and
- ~~(2) For those applications for which a building permit has been granted, proof of the building permit by municipal unit in which extension or expansion is proposed, or statement of need for proposed expansion/extension; and~~
- (3) For those *potable system* applications for which a building permit ~~has not yet been granted~~ *is pending, complete* architectural ~~contract~~ drawings of sufficient detail to *that* reflect water use pursuant to Tables 1 or 2 of Rule 24, together with any amendment, addition, or modification of those drawings which may be made prior to use or occupancy of the project, and any drawings which may be submitted to

the municipal unit for land use or building approvals, a statement of near-term need for the proposed expansion/extension; and

- (4) *For subpotable systems, and for all exterior use for all systems, an itemized estimate of water use in the form of a landscape budget or other alternate water demand estimate as approved by the General Manager; and*
- (5) Architectural ~~contract~~ drawings for each change in the project made prior to use or occupancy which may affect the project's capacity to use water; and
- (6) The applicable fees prescribed in Rule 60; and
- (7) The connection charge prescribed in Rule 24.

Section Six: **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.**

A. **PROCESS**

1. **Potable Water Distribution Systems and Mobile Water Distribution Systems**

- (a) The General Manager (or staff designee) shall review ~~the~~ each application to create or establish a water distribution system designed to deliver potable water, or any mobile water distribution system; ~~and if he determines the application to be is determined to be complete pursuant to the Implementation Guidelines, the General Manager shall act within thirty (30) days subsequent to satisfaction of environmental review, to set a public hearing by the board on the application for such permit, and shall notify the applicant in writing and give public notice of the hearing date. If the application is determined to be incomplete, the General Manager shall notify the applicant concerning that information in which the application is deficient and request the applicant to submit that information. At the hearing, the applicant shall be entitled to present evidence in support of his the application. Interested persons may present evidence in opposition or~~

support of the application. The board, in conducting the public hearing, may request hydrologic, geologic, *legal opinions* or other studies necessary to obtain information required for its decision. The cost of such studies shall be borne by the applicant. *For every application for which a controversy, based on factual evidence already in the record or introduced into the record, arises concerning the extent or adequacy of water rights, the board may require and will specify additional documentation needed to support each water right claim. The board will continue the public hearing on the application until the specified information is provided by the applicant.* The board may deny, approve, or continue any permit application based on the minimum standards as set forth in Rule 22-C and its findings pursuant to Rule 22-B. The board may impose such conditions on the permit that it deems necessary and proper. The General Manager shall notify the applicant within thirty (30) days in writing by mail or in person of the board action taken; namely continuance, approval, conditional approval, or denial. Notice of the action taken shall be deemed to have been given when the written notification has been deposited in the mail, postpaid, addressed to the address shown on the application, or when personally delivered to the applicant or his *the applicant's* representative.

- (b) *In the case of single-connection water distribution system applications for potable or subpotable water use, the General Manager or designated staff member, not the Board, shall function as the hearing officer as set forth in Rule 22-A-2.*

2. Single-Connection Water Distribution Systems

- (a) *The General Manager (or staff designee) shall review each application to create or establish a water distribution system that is designed to deliver water exclusively for single-connection systems, and applications that meet the criteria in 22-A-1(b) above; if the application is determined complete, the General Manager shall act within thirty (30) days subsequent to satisfaction of environmental review, (i) to determine if a hearing exemption applies as provided in Rule 22-A-2(b) below, and if not (ii) to set a public hearing on the application for that permit, and shall notify the applicant in writing and give public notice of the hearing date. If the application is determined to be incomplete, the applicant shall be notified as to information in which the application is deficient and allowed to submit that information.*

At the hearing, the General Manager or staff designee shall sit as the sole hearing officer. The applicant and any interested person shall be entitled

to present evidence in opposition or support of the application. The General Manager in conducting the public hearing, may request hydrologic, geologic, legal opinions or other studies necessary to obtain information required for his decision. The cost of such studies shall be borne by the applicant. For every application for which a controversy, based on factual evidence already in the record or introduced into the record, arises concerning the extent or adequacy of water rights, the General Manager may require and will specify additional documentation needed to support each water right claim. The General Manager will continue the public hearing on the application until the specified information is provided by the applicant. The General Manager may deny, approve, or condition any permit application based on the minimum standards as set forth in Rule 22-C and findings pursuant to Rule 22-B. Conditions on the permit may be imposed as are necessary and proper.

The General Manager shall notify the applicant within thirty (30) days in writing by mail or in person of the action taken; namely continuance, approval, conditional approval, or denial. Notice of the action taken shall be deemed to have been given when the written notification has been deposited in the mail, postpaid, addressed to the address shown on the application, or when personally delivered to the applicant or the applicant's representative. The decision may be appealed to the board of directors pursuant to Rule 70, "Appeals," upon payment of the fee specified in Rule 63 (4).

- ~~(b) Notwithstanding any other provision of this Rule, a hearing exemption shall apply to any application to create or establish a water distribution system that is designed (i) to deliver water exclusively for subpotable uses; and (ii) derives its supply from sources outside of the Monterey Peninsula Water Resources System; and (iii) is a single-connection system. This hearing exemption shall apply only after the application is determined complete and has completed necessary environmental review. The General Manager may deny, approve, or condition the permit based on the minimum standards as set forth in Rule 22-C.~~

Permits granted under this provision may be appealed to the board of directors for a de novo hearing. That hearing shall convene under the rules of process set in Rule 70, "Appeals." The fee specified in Rule 63 (4), however, shall be waived.

B. FINDINGS

In order to protect public trust resources, prior to making its discretionary decision to grant or deny any permit to create or establish any water distribution system, or to create or establish any mobile water distribution system, the board (or the General Manager for certain systems) shall determine:

- (1) Whether the system for which a permit is sought would cause unnecessary duplication of the same types of services by any existing system; and***
- (2) Whether the permit would result in exportation or importation of water outside or into the District; and***
- (3) Whether the permit proposed water distribution system would result in significant environmental effects that cannot be mitigated by conditions attached to the permit; and***
- (4) Whether the application adequately identifies the claim of right for each source of supply for the water distribution system, whether it provides adequate supporting verification documentation thereto, and/or whether the system relies on any non-existent or questionable claim of right; and***
- (5) Whether the application demonstrates the existence of a long-term reliable source of supply; and***
- (6) Whether the source of supply is shared by any other water distribution system, and if so, the extent to which cumulative impacts may affect each source of supply, and species and habitat dependent upon those sources of supply; and***
- (7) Whether the source of supply derives from (a) the Monterey Peninsula Water Resources System, and/or (b) waters within the jurisdiction of the State Water Resources Control Board, and/or (c) waters tributary to the source of supply for any other system; and***
- (8) Whether the proposed water distribution system (a) shall intertie to any other system, (b) shall be able to obtain emergency supplies in the event of system failure, (c) shall provide fire flow requirements for development served by that system; and (d) the extent other water distribution systems shall be required to provide emergency supplies and/or meet fire flow requirements; and***
- (9) Whether the proposed water distribution system shall incorporate adequate cross contamination and backflow measures to protect other systems and sources of supply.***

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-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.*

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 the system capacity limit, which sets the maximum annual production in acre-feet per year; and (iii) a municipal unit (jurisdiction) allocation. for that water distribution system. In addition to the following mandatory conditions, the board or hearing officer may impose other conditions in granting the permit:*
 - (a) *permit shall designate geographic boundary of water distribution system service area, including Assessor's Parcel Numbers;*
 - (b) *permit shall identify authorized use of water distribution system (e.g., potable, subpotable, residential, commercial, and/or other types of use);*

- (c) *permit shall identify approvals by other agencies that shall be obtained before water distribution system permit is finalized or vested;*
- (d) *applicant shall execute an indemnification agreement that hold the District harmless, and promises to defend the District from any claims, demands, or expenses of any nature or kind arising from or in any way related to the adequacy of the water supply of the system;*
- (e) *applicant shall comply with all District rules relating to water well registration, metering and reporting;*
- (f) *applicant shall comply with all District water conservation ordinances; this may include requirements for installation of low-flow fixtures or drought tolerant landscaping;*
- (g) *applicant shall comply with District regulations that govern water meter connections, including payment of applicable fees;*
- (h) *permit shall identify whether interties to other systems are allowed and shall identify restrictions or prohibitions on such interties, including devises to prevent cross-contamination of systems;*
- (i) *permit shall identify which mitigation measures, if any, are required to address potential adverse environmental impacts associated with the proposed water distribution system, and specify funding mechanism, if applicable;*
- (j) *applicant shall provide copy of agreement(s) to serve water to recipient parcels, if a multi-connection system;*
- (k) *applicant shall receive a District permit prior to intensifying or expanding the approved water distribution system;*
- (l) *applicant shall pay to the District the invoiced cost for MPWMD staff time (greater than 20 hours) to process the permit, as documented in billing logs, before the permit is finalized;*
- (m) *applicant shall sign an "Acceptance of Permit Conditions" form upon finalization of permit conditions, wherein the applicant states that he/she understands and accepts the conditions as a binding part of the permit approval, and agrees to carry out the conditions in good faith; the permit is not valid until the signed form is received from the applicant;*

(n) *permit shall state that the permit is subject to revocation in the event the applicant does not comply with the provisions set forth in each condition in this Rule.*

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 a listing of permits filed in the previous water year (July 1 to June 30) in each municipal unit,~~ 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.*

E. AMENDMENTS TO PERMIT

No owner or operator of a water distribution system shall modify, add to or change his/her source of supply, *location of uses*, expand the system beyond the expansion capacity limit, or expand the service area, unless that person first files an application to do so with the District and receives an amended creation/establishment permit. Such applications shall be made pursuant to ~~Rule 21,~~ *Regulation II (Permits), shall comply with each rule therein,* and shall be investigated, considered, determined and acted upon on the same terms and conditions as provided for the approval, conditional approval, or denial of a permit, as provided in this rule.

Section Seven: Amendment of Rule 173 (Regulation of Mobile Distribution Systems)

District Rule 173 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 173. REGULATION OF MOBILE WATER DISTRIBUTION SYSTEMS
DURING A WATER SUPPLY EMERGENCY**

- A. No person, extractor, owner or operator shall operate a mobile water distribution system without first securing a written *permit* permission from the District. *In accordance with Monterey County Code (e.g., Title 15.20), no applications will be accepted or permitted for bulk hauled water for permanent potable use.* Applications for establishment of a Mobile Water Distribution System shall be made pursuant to Rule 22 (Action On Application For Permit To Create/Establish A Water Distribution System) and shall be investigated, considered, determined, and acted upon on the same terms and conditions as provided for the approval, conditional approval or denial of a creation/establishment permit *as stated in that rule. The application shall identify each source of supply and the location of each use. For any subpotable mobile water distribution system within the California-American Water Company (Cal-Am) service area, a condition of approval shall require that Cal-Am be notified so that a back-flow protection device can be installed pursuant to Monterey County Code Title 17.*
- B. In the event prior authorization is not obtained by reason of an emergency or health related situation, authorization for the Mobile *Water* Distribution System permit shall be *sought* obtained from the District *by submittal of a complete application compliant with Rule 21,* within five working days following *commencement* of the emergency or health related event.
- C. Delivery and/or receipt of water from an unpermitted Mobile *Water* Distribution System shall be deemed water waste, *and shall be subject to fine, restriction, and cease and desist order as set forth in Rule 171.*

Section Eight: Amendment of Rules 52, 54 and 57 (Well Registration and Reporting)

District Rules 52, *54 and 57* shall be amended to delete references to an obsolete form and to insert reference to the form in present use. Provisions shown in ~~strikeout~~ text (~~strikeout~~) are to be deleted, and those shown in italicized and bold face type (***bold face***) shall be added. All other provisions of Rules 52, *54 and 57* shall remain unaltered.

RULE 52. REGISTRATION REQUIRED

- 52 A. 2 An executed ~~Declaration of Reporting Status, as more fully described in Rule 54~~(C) ***Water Well Registration Form.***
- 52 B. 2 An executed ~~Declaration of Reporting Status, as more fully described in Rule 54~~(C) ***Water Well Registration Form.***

RULE 54. REPORTING

54 C. 3 Any well *that has been issued a well construction permit from the Monterey County Health Department on or before November 30, 2000* (inside or outside the boundaries of the MPWRS) which has been granted a variance from this standard pursuant to Rule 57.

54 D. 6 *(new section)*
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 57. CRITERIA AFFECTING WATER METER INSTALLATION REQUIREMENTS

B. VARIANCE FROM WELL METER REQUIREMENTS

57 B. 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 requirements to meter wells under Rules 54 and 56 of this Regulation. [text continues as currently written]

Section Nine: Amendment of Rules 60, 62 and 63 (Permit and Appeals Fees)

District Rules 60, 62 and 63 shall be amended to delete references to an obsolete form and to insert reference to the form in present use. Provisions shown in ~~strikeout~~ text (~~strikeout~~) are to be deleted, and those shown in *italicized and bold face type (bold face)* shall be added. All other provisions of Rules 60 and 63 shall remain unaltered. ~~The fees imposed by Rules 60, 62 and 63 shall not be increased or decreased by this amendment.~~

RULE 60. WATER DISTRIBUTION SYSTEM PERMIT FEES

- 60 1. Administrative fee for each permit to Create/Establish a water distribution system:
a. ~~Less than 25 connections: \$750~~
b. ~~More than 24 connections: \$1,500~~
\$1,400 for up to twenty (20) hours of staff time
- 60 2. d Unusually complex applications: ~~\$30.00~~ *\$70.00* per hour of staff time for all necessary efforts in excess of twenty (20) hours per application.

- 60 8. Administrative fee for each amendment of a water distribution system creation permit:
- a. ~~1 connection: \$125~~ *single-connection system: \$750*
 - b. ~~2-24 connections: \$750~~ *multiple-connection system: \$1,400*
 - c. ~~25 or more connections: \$1,500~~ *\$70.00 per hour for more than twenty (20) hours of staff time expended to process (a) or (b) above*

RULE 62. WELL MONITORING FEES

- 62 3. Fee for amendment of ~~Declaration of Reporting Status~~ *Water Well Registration Form* - \$25.

RULE 63. MISCELLANEOUS FEES

- 63 5. Additional Fees for Complex Appeals or Variances: ~~\$30.00~~ *\$70.00* per hour of staff time for all necessary efforts in excess of ten (10) hours per appeal or variance.

Section Ten: 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 Eleven: Effective Date and Sunset

This ordinance shall be given effect at 12:01 a.m. on the *30th 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 Twelve: 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 Erickson, and second by Director Henson, the foregoing ordinance is adopted upon this 19th day of March, 2001, by the following vote:

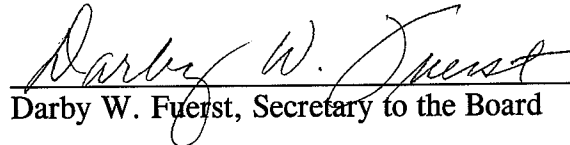
AYES: Directors Erickson, Henson, Lindstrom and Potter

NAYS: Directors Chesshire, Edwards and Pendergrass

ABSENT: None

I, Darby W. Fuerst, 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 19th day of March, 2001.

Witness my hand and seal of the Board of Directors this 28th day of March, 2001.



Darby W. Fuerst, Secretary to the Board

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H Stern, Final Ord 96, 03/27/01, 20 pages