

ORDINANCE NO. 10

An Ordinance Of The Board of Directors
Of The Monterey Peninsula Water Management District
Amending Its Rules and Regulations And Implementing
The Carmel River Management Plan

WHEREAS, the Board of Directors of the Monterey Peninsula Water Management District finds as follows:

1. The California Legislature has charged the Monterey Peninsula Water Management District with the integrated management of water resources and problems affecting the Monterey Peninsula and Carmel River basin.
2. The Monterey Peninsula Water Management District desires to protect flows of the Carmel River, and its surrounding environs.
3. The Monterey Peninsula Water Management District has formed an improvement zone (Zone #3) which will facilitate management of the Carmel River, and perform works and projects for the benefit of the zone.
4. The Monterey Peninsula Water Management District has promulgated its Carmel River Management Plan which will protect the water course, the watershed, public ways, life and property in the zone; promote the restoration of river banks and scenic resources; reduce environmental degradation; and enhance the fish and wildlife habitat.
5. Implementation costs for the River Management Zone derive from, and shall be paid by, benefit assessments upon zone properties, and such zone project costs which are to the exclusive benefit of this zone shall be paid from zone assessments to the extent feasible.
6. Those properties lying to the west of Val Verde Drive are benefitted to a lesser extent by the activities of this zone in that a substantial portion of this area has dikes and this reach is less subject to erosion than other bank reaches of the river.
7. Other activities contemplated by the Carmel River Management Plan shall be funded and paid by utility user fees, and such costs shall inure to the common benefit of water users, and to the common benefit of the District as a whole.
8. A sufficient correlation exists between meter size and water usage to allow user fees to be set by meter size groups.
9. The amount of the user fee to be collected is not sufficient to fund extensive administrative or collection costs, and the assessment of such user fee against individual well users and small water systems would not be cost effective.

10. The purpose of this ordinance is to protect the Carmel River and its riparian corridor including visual aspects and value as wildlife habitat, stabilize the river channel, and promote the public health and safety by lessening potential local erosion damage and flood related hazards.

NOW, THEREFORE, BE IT ORDAINED that Ordinance No. 10 shall be adopted and incorporated as appropriate to the District's Rules and Regulations.

On motion of Director Heuer and second by Director Lee, the foregoing ordinance is duly adopted this 26th day of July, 1983, by the following votes:

AYES: Directors Williams, Peters, Woodworth, McClintock, Heuer and Lee
NAYES: None

ABSENT: Director Henson

I, Gladys McKillop, Secretary of the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a full, true and correct copy of an ordinance duly adopted on this 26th day of July, 1983, and now is of record in my office.

Witness my hand and seal of the Board of Directors this 29th day of July, 1983.


Gladys McKillop, Secretary

Section I Carmel River Management. The following rules shall be added as Regulation XII to the Rules and Regulations of the Monterey Peninsula Water Management District.

Regulation XII Carmel River Management

Rule 120. Carmel River Advisory Committee.

- A. Committee Purpose. The Carmel River Advisory Committee is a standing committee of the District. The Committee shall advise the Board of Directors with regard to management of the Carmel River and to any matter referred to this committee.
B. Committee Organization.

1. The Carmel River Advisory Committee shall be comprised of seven (7) members. Each Director of the District shall appoint one member to this Advisory Committee. Committee members shall serve a term of two (2) years, which term shall expire on

June 30, provided, however that the first seven (7) appointees shall, by lot, determine that four (4) members shall serve for one (1) year, and three (3) members shall serve for two (2) years. Appointment to any vacancy shall be made by the Board of Directors for the remainder of the unfulfilled term. A vacancy shall be created by resignation or in the event a Committee member fails to attend three (3) consecutive regular meetings without good cause as determined by the Board of Directors. Nomination to fill any vacancy or to reappoint any committee member shall be made by the Director's seat which exercised the original appointment to that position. Notwithstanding any other provision, this Committee shall cease to function on June 30, 1993.

2. All meetings of the Committee shall comply with the Ralph M. Brown Act. At the first meeting held in each fiscal year, the Committee shall elect a chairperson and vice-chairperson to preside at Committee meetings. The committee may adopt rules governing the conduct of its meetings.

Rule 121 Carmel River Management Funds.

A. Benefit Assessments. Benefit assessments which derive from property fronting the Carmel River pursuant to the Carmel River Management Zone shall be administered pursuant to this regulation. The maximum assessment within Zone #3 shall be \$0.35 per lineal foot of river bank, provided, however, that such maximum assessment shall increase or decrease each year by the CPI inflator as determined by the County of Monterey for budget setting purposes. Real property which fronts the Carmel River within Zone #3, and which lies in an Area of Reduced Benefit as that term is defined by these Rules and Regulations, shall not be assessed in an amount exceeding \$0.0875 per lineal foot of river bank, provided however that said maximum assessment shall increase or decrease each year by the CPI inflator as used by the County of Monterey for budget setting purposes. The total assessment within the zone shall not exceed \$90,000 per year. The actual amount to be assessed shall be \$0.32 per lineal foot during the first year, and \$0.0875 per lineal foot for property within the Area of Reduced Benefit, and shall be determined by the process set forth below in Rule 121(B) for each subsequent year. Notwithstanding any other provision of these Rules and Regulations, no assessment credit shall be allowed for the first year of zone assessment and no assessment credit shall be allowed at any time in the Area of Reduced Benefit. No assessment shall be made pursuant to this rule on or after July 1, 1993.

B. Calculation of Assessments.

1. A review of all assessments pursuant to this Rule shall be made annually. Such review shall be conducted by the District Board with the advice of the Carmel River Advisory Committee pursuant to the process set forth below to determine the assessment needs of Zone #3, to determine the assessment needs of

the Area of Reduced Benefit, to determine the assessable river frontage, the existence of a constructive Riverbank Assessment Line, and to calculate an actual assessment for each parcel within the zone. The Carmel River Advisory committee shall review any application for prior work or private works credit and tender its written recommendation before action on that application is taken by the Board.

2. In order to determine the actual assessment per parcel, the Board shall first conduct a public hearing concerning current river management needs. Thereafter, the Board will calculate the length of river bank assessment line subject to each assessment. The Board will then, upon the advice of the Carmel River Advisory Committee, determine the amount of credit which shall be allowed in accord with subparagraph B3 below. Finally, the Board will determine the assessment for each parcel.

3. Assessment credits may be allowed by the Board for Zone #3 assessments provided, however, that no assessment credit shall be allowed in the Area of Reduced Benefit. Upon application of an affected property owner, credit may be allowed for any work, improvement, or other activity undertaken by a property owner to protect, restore or stabilize that portion of the riverbed or riverbank which lies on the applicant's property provided these meet the standards to be imposed pursuant to Rules 123, 125, and 126 upon works undertaken by the District or by permit within the zone. The Board may grant credit for prior works and private works equal to 100% of the cost of prior or private works provided those works comply with the technical standards as described pursuant to this regulation. No credit shall be allowed for the first year of zone assessment. For each subsequent year, no credit shall be allowed which exceeds 50% of the proposed assessment for the particular parcel whose owner seeks the prior or private works credit. Unused portions of the prior works credit shall be carried forward for use as credit in later years. The Board shall prepare written findings upon advice of the Carmel River Advisory Committee regarding each application for prior works credit on the following concerns:

- a) the nature of the prior work or private works
- b) the extent to which the prior work or private work meets District standards
- c) the direct cost to the owner, or predecessor in interest, of the prior work or private work
- d) the source and character of funds used to finance the prior or private work
- e) the amount of credit previously granted for the prior work or private work
- f) whether the property owner has granted an easement to the District for access to the Riparian corridor.

Assessment credits shall be mandatory in those circumstances where the works comply with all standards set forth in this regulation and no question exists regarding the cost of such prior or private works, private (non-public) funds were used to

finance such works, and the property has been subordinated to an easement in favor of the District in order to grant access to the riparian corridor for the purpose of the District undertaking specific river bed and bank works, or to acquire rights of way for District irrigation systems. Where all such conditions are not met, the grant, partial grant or denial of the credit shall lie in the discretion of the Board based on the facts presented regarding the application. The grant, partial grant, or denial of a credit application may be appealed by the property owner, the District, or any third party for rehearing before the Board of Directors pursuant to Rule 71, Assessment Appeals.

4. Within fourteen (14) days following the conclusion of the hearing held pursuant to this Rule, each property owner within Zone #3 shall be given written notice of the actual amount to be assessed against his property, including the amount of credit as determined by the Board.

C. User Fees. River Management User Fees shall be administered pursuant to this Regulation.

1. Each water distribution system which possesses 50 or more connections and derives all or part of its water supply from the Carmel River, the Carmel River watershed, or the Carmel Valley aquifer shall be subject to a River Management user fee. The owner or operator of each water distribution system shall collect the fee specified herein, but the user shall bear ultimate responsibility for the payment of such fee. To the extent feasible, river management fees are to be levied annually, during the third (3rd) quarter of the calendar year, and are to be charged upon the same bill and collected as one item together with all other charges made by that water distribution system.

2. Where the General Manager determines such fee collection to be infeasible, the owner or operator of the water distribution system shall comply with this section by providing to the District the following information in a form acceptable to the District:

- a) the name of each water user
- b) the address at which each user receives his/her water bill
- c) the amount of water each user consumed during the preceding 12 months.

D. Calculation of River Management User Fees.

1. The Board of Directors shall determine annually the amount of River management user fee to be collected pursuant to this Regulation after receiving the recommendation of the Carmel River Advisory Committee. The maximum sum to be collected pursuant to this user fee shall not exceed a District wide aggregate of \$105,000 per fiscal year, provided, however that such maximum sum shall increase or decrease each year by the CPI inflator as determined by the County of Monterey for its budget

setting purposes, or as a result of revenues generated by minimum user fees, provided however, that the total District wide aggregate user fee shall not exceed \$210,000 for any reason. No user fee shall be made pursuant to this rule on or after July 1, 1993.

2. Prior to setting the user fee to be collected for each subsequent year, including Fiscal Year 1983-84, the District Board shall first conduct a public hearing regarding river management needs and utility user concerns and seek the advice of the Carmel River Advisory Committee. At the close of such hearing, the Board shall determine by Resolution:

- a) the amount of money needed to fund general river management activities pursuant to this regulation,
- b) the estimated amount of assessments which will fund specific river management works,
- c) the total amount of user fee to be collected pursuant to this regulation,
- d) the manner in which the fee is to be collected, and
- e) the total amount of General Fund, if any, to be used to fund river management activities pursuant to this regulation.

3. A separate user fee amount may be established by the Board for each size of water meter, provided that the aggregate fee collected from that size group substantially relates to the quantity of water used by all persons or entities which possess that meter size. Such groupings shall not operate to increase the District-wide user fee limit as set forth above.

E. Expenditures. River Management User fees, Zone #3 assessments, District General Funds, grant funding, and donations received pursuant to these Rules and Regulations may be expended by the District for river management activities as set forth in Rule 123, and further provided that each expenditure shall be accounted for in consonance with Rule 122 and the general accounting principles to which the District adheres.

Rule 122. River Management Fund Accounting.

A. Fund Segregation. The District shall maintain separate accounts for all benefit assessments, and user fees received by the District pursuant to this Regulation.

B. Benefit Assessment Funds. Benefit assessment funds shall only be expended for the benefit of the single zone from which the assessment is derived. Such funds shall finance only those works, improvements, or activities which inure directly to the benefit of zone property.

C. River Management User Fees. River Management User fees shall be expended for the common benefit of all utility users, and for the common benefit of the District as a whole. Such funds shall finance those works and activities which inure to the benefit of

the District as a whole. User fee funds shall not finance non-emergency zone works or projects if benefit assessment funds are available.

D. Emergency Sinking Funds. The District may set aside a portion of each annual assessment and each annual user fee to create a fund to finance emergency river management works. Grant funds and donations for river management works may be placed in such Sinking Fund; transfer or expenditure of such funds shall be at the discretion of the Board.

E. Fund Transfers. Although the river management user fee fund and the benefit assessment fund are to be maintained as separate fiscal accounts pursuant to this Regulation, the District may make transfers and/or advances of such funds pursuant to Sections 118-506, 118-508, and 118-509 of the Monterey Peninsula Water Management District Law.

Rule 123. River Management Activities

The following activities fall within the purview of the Carmel River Management Plan and may be undertaken by the District as discretionary acts to the extent River Management Funds are reasonably available. Notwithstanding any other provision of this Rule and except as it may be amended, no river management activity or expenditure of funds shall be undertaken by the Board on or after July 1, 1993.

A. Erosion Control and Prevention.

1. Formulation of Standards - Develop technical standards and a structural master plan to guide all river bank and channel modification projects. Guidelines may (a) set the optimum channel width and bank steepness to depth relationships, (b) address coordination requirements among nearby property owners, (c) evaluate the cost and effectiveness of alternative bank stabilization solutions, (d) establish preferred solutions, (e) define acceptable circumstances and processes for sediment removal, (f) set general engineering requirements for material and design, (g) establish requirements for covering, replanting and maintaining works once completed. Standards shall be reviewed to reflect experience gained during implementation of the program, and (h) establish aesthetic requirements for erosion works.

2. Annual Review - Review aerial photos taken each spring; walk the entire alluvial reach of the river. Review areas that may be subject to erosion during the next storm season.

3. Removal of Hazardous Trees - Identify trees that appear to be diseased or likely to fall into the river. Attempt to effect removal or replacement of such trees where their removal does not conflict with the shade or wildlife requirements.

4. Snag Removal - Remove snags and debris from the

channel, or secure with cables where appropriate.

5. Technical Assistance - Provide technical assistance through staff as follows:

(a) Permits - Coordinate issuance of River Work Permits with the requirements of California Department of Fish and Game and the U.S. Army Corps of Engineers.

(b) Design of Works - Provide design, engineering and construction supervision upon request to landowners proposing riverbank or channel protection projects.

(c) Landowners - Assist landowners to acquire rights of way and assist groups of landowners to select projects by providing information on standards and costs.

(d) Government - Monitor the availability of outside funding and review proposed legislation affecting the program or the interests of the Carmel River.

(e) Funding - Participate in specific River Works projects as feasible and desired by the Board. Financial participation may be partial or full at the discretion of the Board.

6. Project Sponsor - Administer grant funds, donations, and District projects with multiple property owner participation.

7. Construction - Construct riverbank and channel works.

8. Maintenance of Works - Operate and maintain District projects and works related to riverbank and riverbed erosion along the Carmel River.

B. Maintenance of Vegetation.

1. Monitoring - Review annual aerial photos and inspections of the riparian corridor to determine changes in the health of the riparian vegetation. Maintain a file of photos and maps showing changes in the riparian corridor.

2. Planting and Revegetation - Replant areas as needed and prioritize areas for planting. Costs of planting may be borne fully or partially by the District, but no expenditure shall be permitted which exceeds current funds available pursuant to Rule 121.

3. Technical Assistance - Provide technical assistance through staff as follows:

(a) Permits - Assist individuals seeking permits to revegetate and change the vegetation type along the riparian corridor.

(b) Design - Provide design, engineering, and construction support upon request to landowners proposing irrigation systems for watering riparian vegetation in the corridor.

4. Construction of Irrigation Systems - Design District irrigation system standards and specifications, and identify reaches where such irrigation is necessary to the health of the riparian corridor. Prioritize areas for irrigation. Irrigation development and construction costs may be borne fully or partially by the District at the discretion of the Board.

5. Operation and Maintenance - Monitor and maintain District irrigation systems. Operation should integrate monitoring of plant health.

C. Inspection.

1. Erosion Control Works - Inspect bank work and channel modification projects to obtain compliance with standards and permit conditions.

2. Vegetation Removal - Monitor activities along the river to prevent unauthorized grading and works.

D. Education.

1. Erosion Works and Prevention - Educate landowners and the general public regarding river management and erosion prevention. Initiate forums with landowners to provide information on the cost, effectiveness and liabilities of bank modification.

2. Vegetation - Assist property owners to encourage planting of desirable species and to discourage removal of vegetation. Provide information on desirable species, spacing and maintenance.

3. Grading - Develop and distribute information on grading.

4. Regulation - Develop and distribute standards and conditions to be met in River Work Permits and Emergency River Work Permits pursuant to Rule 126. Distribute information as to those activities which may be undertaken without a River Work Permit, and activities which are defined as "minor works" pursuant to Rule 126.

E. Research. Research stream geomorphology, erosion potential, fishery and vegetation to understand the system dynamics and to maintain appropriate standards.

F. Easements. Accept and acquire easements needed to provide right-of-way for irrigation systems and access to undertake

works, and accept other property interests deeded to the District.

G. Emergency. Provide emergency response to remove snags and to minimize damage where the river is causing erosion or threatening to erode.

H. Other Related Activities. Manage the riparian corridor, examine sedimentation from non-riparian drainage areas and evaluate culvert design at tributary junctions in conjunction with the Monterey County Department of Public Works. Monitor existing trails for impact upon the riparian corridor. Develop and propose trail standards. Accept River Management funds, grants, and deeds from public and private sources.

Rule 124. River Management and Regulation.

It shall be a violation of these Rules and Regulations, and a misdemeanor pursuant to the Monterey Peninsula Water Management District Law, for any individual to do one or more of the following acts within the riparian corridor without a valid permit issued by this District:

A. Damage, remove, alter, or otherwise injure the riverbank, riverbed, or riparian corridor of the Carmel River,

B. Damage, remove, alter or otherwise injure that portion of any stream, ditch, canal, or reservoir which lies within the riparian corridor of the Carmel River, or take water from any canal, ditch, flume, pipe or reservoir installed or operated by the Monterey Peninsula Water Management District.

C. Damage, remove, alter, or otherwise injure any sprinkler or irrigation system installed or operated by the Monterey Peninsula Water Management District.

D. Damage, remove, alter, deface, or otherwise injure any sign, barrier, or obstruction erected by the Monterey Peninsula Water Management District upon the riverbank or riverbed of the Carmel River, or within the riparian corridor of the Carmel River.

E. Damage, remove, or otherwise injure any tree or willow within or upon the riverbank or riverbed of the Carmel River except for the purpose of planting local willow cuttings less than one inch in diameter to enhance bank cover.

F. Damage, remove, or otherwise injure native vegetation, excluding poison oak, within the riparian corridor.

G. Construct, alter, damage, or otherwise injure any dike, or trail within or upon the riparian corridor.

This rule shall not be construed as applying to the diversion or extraction of water.

Rule 125. River Work Permits.

A. Regular Procedure. River Work Permits shall be required by any person who undertakes riverbank or riverbed protection, riparian vegetation removal, channel modification or activities prohibited by Rule 124 within the riparian corridor, except where such activity is expressly exempt from this permit process in accord with Rule 125 B. Such a permit must be obtained prior to the commencement of any work or activity unless that activity is defined as a "minor work" or unless that activity is an "emergency work". Minor works may be undertaken in accord with the process set forth in Rule 126 A (4) below. Emergency works may be undertaken in accord with the process set forth in Rule 126 B.

B. Permit Exemptions. The District Board may from time to time, upon advice of the Carmel River Advisory Committee, designate River Works which shall be exempt from this permit process, and therefore not be subject to the prohibitions set forth in Rule 124. District staff shall maintain and distribute a list of such exempt activities.

C. Emergency Procedure. Emergency riverbank or riverbed protection or channel modification measures are excepted from the prior requirement for a River Work Permit, provided that the General Manager or District Engineer must first declare such an emergency to exist or to be imminent. Emergency Works Permits shall be processed in accord with Rule 126 B. When declaring an emergency, the General Manager or District Engineer shall take into account the high probability of flooding, erosion danger, blockage and structural damage. During a declared period of emergency, the District must be notified as soon as possible in writing of the type, location and extent of any emergency works. Application for approval shall then be made within 10 days after such emergency works were begun to the Monterey Peninsula Water Management District on forms supplied by the District and, if required by the General Manager or District Engineer, shall be accompanied by appropriate plans.

D. Procedure Where a Life or Property Is Threatened. Should an emergency situation arise that requires immediate bank protection actions to mitigate a clear and present danger to life or property, such actions may be performed without prior approval of the General Manager or District Engineer. Protective measures performed under this subsection shall be limited to those needed to mitigate such clear and present danger to life or property. Such activity shall immediately be communicated to the District, and within ten calendar days of the commencement of such actions the type, location, and extent of protective measures performed under this subsection shall be reported in writing to the District.

Rule 126. Permit Process

A. River Work Permits.

1. Applications for River Work Permits shall be made to the Monterey Peninsula Water Management District on forms supplied by District staff and shall be accompanied by plans showing appropriate site, improvement and engineering information as may be required by District staff. The fee prescribed by Rule 60 shall be required for any River Work Permit.

2. Any application which appears to propose an activity regulated pursuant to the National Flood Insurance Program, including but not limited to:

- (a) grading or changes in land forms that might alter channel hydraulics of the configuration of the floodway, or
- (b) levees or other flood control works that might alter channel hydraulics or the configuration of the floodway,

shall be referred for review and comment to the Monterey County Flood Control and Water Conservation District.

3. A public hearing shall be held by the General Manager or District Engineer on the application after the District Staff determines that the information submitted by the applicant is sufficient to consider the matter; not less than ten (10) calendar days prior to the public hearing the District shall give notice of the hearing by one publication in a newspaper of general circulation and by posting notice in conspicuous places close to the properties affected by the application. The General Manager or his delegee shall have sole discretion as to where to post such notice, and a failure to post shall not invalidate the proceedings. The General Manager or his delegee shall also give notice of such hearing by mailing postage prepaid a notice of the time and place of such hearing to persons owning property adjacent to the exterior boundaries of the area actually occupied by the use for which the River Work Permit was applied. Addresses shall be used from the last equalized assessment roll, or alternatively, from such other records of the Assessor or the Tax Collector as contain more recent addresses in the opinion of the General Manager. No hearing shall be required of non controversial minor works.

4. The Board of Directors shall by resolution promulgate upon advice of the Carmel River Advisory Committee a list of "minor works" for which permits, in the absence of controversy, may be granted by the General Manager upon payment of the fee prescribed by Rule 60 without published notice or public hearing. Minor Work Permits which have been issued shall be prominently posted in the Monterey Peninsula Water Management District office, and shall not become effective until seven (7)

days after issuance. Such permits may be appealed to the Board pursuant to Rule 126 (c) of this regulation. Holders of a Minor Work Permit may undertake such work immediately upon issuance of the permit (but before the permit becomes effective), provided however, that each applicant for a Minor Work Permit who undertakes work prior to the effective date of such permit agrees in writing to proceed during that 7 day period at his own risk, and agrees to indemnify and hold harmless the Monterey Peninsula Water Management District for any damage which may result, and agrees to comply with any Board order should the permit be denied or conditioned on appeal.

5. In order to grant a River Work Permit, an Emergency Permit, or a Minor Work Permit, the General Manager or the District Engineer shall make the following findings based upon facts apparent from the district files, the permit application or facts presented at the hearing:

- (a) the work allowed by the proposed permit does not appear to adversely affect adjoining or other properties;
- (b) the work allowed appears to be visually compatible with the natural appearance of the river channel, banks and riparian corridor;
- (c) the work allowed appears to be appropriate for the intended purpose, and be consistent with technical standards and plans set by the commission;
- (d) the establishment, maintenance or operation of the use or work applied for does not appear under the circumstances of the particular case, to be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the District, and
- (e) the work permitted appears either to comply with, or be exempt from the requirements of the National Flood Insurance Program.

Each permit shall briefly set forth or refer to the evidence supporting the findings.

6. The General Manager or the District Engineer may designate conditions in connection with the permit to secure the purposes of this Regulation, in addition to any standard permit conditions which may be required by the Board. The General Manager or the District Engineer may also require bond and guarantees to assure compliance with the conditions.

7. Each permit issued by the General Manager or the District Engineer shall become effective seven (7) days after the date such permit was issued and remain valid until the date of

expiration stated on the permit; or if no date of expiration is stated, or otherwise specified all such permits shall expire one year from the date of granting said permit unless the permitted activity has started within this period.

8. When a property owner wishes to maintain the river channel and/or riverbank on a regular basis, a River Work Permit may be issued by the General Manager or District Engineer upon the approval of an appropriate management plan. River Work Permits for ongoing activity, such as maintenance programs, shall expire one year after an enactment repealing this Rule or Regulation on July 1, 1993, whichever event occurs first. Permits granted for such ongoing activity under this Rule shall state this basis for termination as follows:

"This permit shall terminate on the date set forth below; and if no date of termination is set, shall terminate one year after the repeal of this Rule or Regulation".

B. Emergency Work Permits. Emergency riverbank or riverbed protection or channel modification measures performed under this Regulation shall require a subsequent Emergency River Work Permit from the General Manager or District Engineer. An application for such a permit shall be submitted within ten (10) calendar days after commencement of such measures. The fee prescribed by Rule 60 shall be required for any Emergency River Work Permit. The intent of such a subsequent Emergency River Work Permit is to ensure that any emergency bank and bed protection measures conform to or will be brought into conformance with the technical standards promulgated in accord with this regulation. To the extent practicable, Emergency River Work Permits shall be administered and granted in accordance with Rule 126A above, and may also be appealed to the Board in accord with Rule 126C. Standards shall be developed and distributed summarizing the design concepts that will be required in emergency permits. Persons undertaking Emergency Works without prior approval shall bear sole responsibility for the adequacy and safety of such work, and shall be deemed to proceed at their own risk. The District, upon later review of the Emergency Work Permit, reserves the right to require removal or modification of such works to that measure compatible with the structural management plan.

C. Permit Appeals. Determinations of the General Manager or the District Engineer may be appealed to the Board of Directors pursuant to Rule 70, "Appeals" upon payment of the fee specified in Rule 63(4).

Rule 127 Limitations.

Notwithstanding any other provision of this Regulation, neither the Monterey Peninsula Water Management District nor their Directors, officers, members, employees or staff shall be

responsible by operation of these Rules and Regulation for the detection, prevention, or mitigation of erosion, floods or flood damage within the Monterey Peninsula Water Management District.

Rule 128 Effective Dates

Notwithstanding any other provision of the Rules and Regulations, Rules 124, 125, 126 and 60, subparagraph 60(5), 60(6), 60(7) shall not be operative or have any force or effect of law until the Board of Directors of the MPWMD adopts a Resolution which acknowledges that the Monterey County Board of Supervisors has amended Chapter 20.108 (title 20-124) of the County Code to avoid the overlapping regulatory jurisdiction with this regulation and states the effective date for any or all of those rules.

Rule 129 Sunset Provisions

Notwithstanding any other provision of this Regulation, Regulation XII and all rules thereunder, shall become revoked by operation of law on July 1, 1993.

Section II. Assessment Appeals. The following Rule shall be added to Regulation VII of the Rules and Regulations of the Monterey Peninsula Water Management District:

Rule 71. Assessment Appeals. Any determination concerning the calculation of a benefit assessment, or concerning the calculation of an assessment credit may be appealed to the Board of Directors. Such an appeal shall be initiated in writing, within fourteen (14) days after the property owner has received notice pursuant to Rule 120 (B)(4) of the final assessment. Such appeal shall specify in writing the grounds upon which it is taken, reference the provision of these Rules and Regulations violated, and shall be accompanied by the fee prescribed in Rule 63. Within thirty (30) days of receipt of such appeal, the General Manager shall set a hearing on the appeal before the District Board and notify the appellant and/or applicant in writing of the time and place of the hearing at least ten (10) days prior to the hearing and give public notice of the hearing date. An appeal may be filed by the applicant, the General Manager, or any other person. At said hearing the appellant and/or applicant and other persons may present evidence concerning the appeal. The Carmel River Advisory Committee may forward its recommendation regarding this matter. The Board may deny, approve or continue any appeal. Should the Board grant an appeal which seeks an assessment credit for prior works, the Board shall adopt findings consistent with Rule 121 B(3). The General Manager shall notify the appellant and/or applicant within ten (10) days in writing by mail of the Board action taken. 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 on the application.

Section III. The following amendments shall be made to Rule 70 of the Monterey Peninsula Water Management District Rules and Regulations:

Rule 70. Appeals - Determinations of the General Manager or the District Engineer may be appealed to the District Board, in writing, within fourteen (14) days after any such determination. Such appeal shall specify in writing the grounds upon which it is taken, and shall reference the provision of these Rules and Regulations which have been violated, and shall be accompanied by the fee prescribed in Rule 63. Within thirty (30) days of receipt of such appeal, the General Manager shall set a hearing on the appeal before the District Board and notify the appellant and/or applicant in writing of the time and place of the hearing at least ten (10) days prior to the hearing and give public notice of the hearing date. An appeal may be filed by the applicant, the General Manager, or any other person. At said hearing the appellant and/or applicant and other persons may present evidence concerning the appeal. The Board may deny, approve or continue any appeal. The General Manager shall notify the appellant and/or applicant within ten (10) days in writing by mail 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. Unless the Board otherwise determines, any permit held by a applicant for which an appeal has been filed pursuant to these rules and regulations shall be deemed suspended until the appeal has been resolved.

Section IV. Fees. The following provision shall be added to Rule 60 of the Monterey Peninsula Water Management District Rules and Regulations:

Rule 60 (5) Minor River Works Permit - \$10.00
Rule 60 (6) Fee for River Works Permit - \$25.00
Rule 60 (7) Emergency River Works Permit - \$25.00

Rule 63 (4) Fee for Assessment Appeal - \$25.00

Section V. The following miscellaneous changes shall be made to the Monterey Peninsula Water Management District Rules and Regulations:

A. Rule 11 shall have the following definitions added:

"Area of Reduced Benefit": This term shall mean those parcels of real property which front the Carmel River within Zone #3, and which lie between Carmel Bay and the southerly extension of Val Verde Drive. The Area of Reduced Benefit of Zone #3 shall be described as follows:

All of Parcel A of Zone #3 of the Monterey Peninsula Water

Management District, as described in the Engineer's Report, together with;

that part of Parcel B of said Zone #3 lying to the west of a line running approximately north-south across said Zone #3, along the easterly boundaries of parcels 14 and 23 as such parcels are shown on sheet 2 of map of said Zone #3, more particularly described as follows:

beginning at a point on the northerly boundary of said Zone #3 at the most westerly points of the common boundary of Parcel 2 described on Reel 1058, page 116, recorded 12 June 1976, and the 25.086 acre parcel shown on the Record of Survey Map recorded 29 March 1965 in Book 7 of Surveys at page 73, Official Records of Monterey County, CA;

then running southeasterly, turning back northwesterly, and then southwesterly around the easterly side of said Parcel 2 to the common boundary of said Parcel 2 and that parcel of land described on Reel 873, page 443, recorded on 1 October 1973;

then running southerly along the easterly boundary of the parcel described on Reel 873, page 443, to the southerly boundary of said Zone #3.

"Bankworks": Shall mean gabions, riprap, revetments or other structural erosion control devices recommended in the Carmel River Structural Master Plan.

"Bed and Banks": Shall mean all that area between the right Riverbank Assessment Line and the left Riverbank Assessment line, which term shall include within it the definitions of "riverbed" and "riverbank" as defined by these Rules and Regulations.

"Native Vegetation": Native vegetation shall mean those plants defined as native vegetation in B.E. Howitt and J.R. Howell (1964) The Vascular Plants of Monterey County, California Wasmann Journal of Biology, Vol. 22, No. 4, or its current supplement a copy of which is available at the District office and is incorporated herein by this reference.

"Riverbank": Shall mean the acclivity or elevated land which forms the boundary of the Carmel River by regularly confining the waters of the stream to their channel. The outer boundary of each riverbank shall be the Riverbank Assessment line; the inner boundary of each Riverbank shall be the hollow, path or channel, defined by these rules as the riverbed, which is formed by the regular and usual flow of Carmel River water. Excluded from the term Riverbank shall be all lands defined as riverbed.

"Riverbank Assessment Line": Shall mean the waterline of the Carmel River during the flow with a recurrence interval of ten (10) years (10 year flood), as determined for the Federal Insurance Administration by Nolte and Associates; the waterline shall be determined by the step-backwater method described in the

United States Geologic Survey Water Supply Paper 1968-A, 1966, "Definition of Stage-Discharge relationship in Natural Channels by Step-backwater Analysis", by J.F.Bailey and H.A.Ray. In those areas where the Riverbank Assessment Line cannot be determined through use of the foregoing criteria, a constructive Riverbank Assessment Line shall be determined by the General Manager based upon interpreting the Spring, 1983 aerial photographs.

"Riverbed": Shall mean the more or less permanent and natural hollow, path or channel over which the regular or usual waters of the Carmel River flow with a recurring or annual interval. The term "Channel" shall be synonymous with the term Riverbed.

"Riparian Corridor" shall mean:

- a. All that area which comprises the riverbed and riverbanks of the Carmel River which lies within the boundaries of the Carmel River Management Zone (Zone #3), and
- b. All those areas which lie within 25 lineal feet of the riverbank assessment line, excepting however, all lands which lie outside of the Zone # 3 boundary, and exempting lawns, landscaping and cultivated areas as shown on the Spring 1983 aerial photographs taken by the California American Water Company pursuant to the agreement with the District in accord with Rule 123A of this Regulation.

B. Rule 20 shall have the following subparagraphs added:

C. Permit to Undertake Work on Projects Within The Riparian Corridor. Before any individual may undertake any work or project within the riparian corridor, including channel modification, riverbank works, or vegetation removal, such person shall obtain a prior written River Works Permit from the District in accord with Rule 126 B(1) or meet the Emergency River Work Permit criteria of Rule 125 B, or be expressly exempt from the River Work Permit requirement pursuant to Rule 125 A.

C. Rule 24 B shall have the following sentence added:

After making the connection charge calculation detailed above, the General Manager may reduce the connection charge with respect to applications for an amended permit which seek only to enlarge or resize an existing connection. The connection charge reduction shall be a percentage reduction, and shall operate to exact a connection charge only as it relates to the extra increment of water which will be available to the applicant as a function of the enlarged connection.

D. Rule 54 A shall have the following sentence added:

In lieu of the 6 month well report required above, each owner/operator may comply with this rule by submitting a single water production statement on or before the 31st of July, setting forth water production for the full twelve months of the preceding water year.