

ORDINANCE NO. 11

Original

f The Monterey Peninsula Water Management District
 he District Rules And Regulations Incorporating
 For Consideration Of Open Space Utilization
 Of Potable Water

WHEREAS, Article 10, Section 2 of the California Constitution requires that reclaimed water be used when available,

WHEREAS, Section 13550 of the California Water Code declares that the use of potable water for open space is a waste where sub-potable water is reasonably available for such uses,

WHEREAS, the Monterey Peninsula Water Management District desires to encourage the use of sub-potable water,

WHEREAS, Section 363 of the Monterey Peninsula Water Management District Law prohibits the expansion of water distribution systems within the Monterey Peninsula Water Management District without the approval of the District,

WHEREAS, Section 328 of the Monterey Peninsula Water Management District Law enables the District to abate waste,

NOW, THEREFORE, BE IT ORDAINED that the Rules and Regulations of the District are amended as shown in the sections of the attached Rules and Regulations (Attachment 1) shown in bold print (incorporated by reference herein).

On motion of Director Peters and seconded by Director Lee, the foregoing ordinance is duly adopted this 14th day day of November, 1983, by the following votes:

AYES: Directors Woodworth, Peters, Lee, Henson, Williams, Heuer and McClintock

NAYES: None

ABSENT: None

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 the 14th day of November, 1983, and now is of record in my office.

Witness my hand and seal of the Board of Directors this 16th day of November, 1983.

Gladys McKillop
 Gladys McKillop, Secretary

RULES AND REGULATIONS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

ORDINANCE NO. 1, FEBRUARY 11, 1980
ORDINANCE NO. 2, MARCH 11, 1980
ORDINANCE NO. 3, JUNE 9, 1980
ORDINANCE NO. 4, FEBRUARY 9, 1981
ORDINANCE NO. 5, APRIL 13, 1981
ORDINANCE NO. 6, MAY 11, 1981
ORDINANCE NO. 7, JULY 13, 1981
ORDINANCE NO. 8, JANUARY 14, 1982
ORDINANCE NO. 9, FEBRUARY 14, 1983
ORDINANCE NO. 10, JULY 26, 1983
ORDINANCE NO. 11, NOVEMBER 14, 1983

DISTRICT BOARD

Chairwoman, Nancy McClintock
Director, Edwin B. Lee
Director, Dick Heuer
Director, Alexander Henson
Director, William Woodworth
Director, Florus Williams
Director, William Peters

DISTRICT STAFF RESPONSIBLE FOR PREPARATION

General Manager, Bruce Buel
District Secretary, Gladys McKillop
Clerk Typists, Maryl Filippini, Deborah Fortune
District Counsel, David C. Laredo

November 14, 1983

REGULATION XIII

RULE 130 Sub-potable Water Alternative

RULE 131 Sub-potable Water Conversions

RULE 132 Supplemental Authority

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GREENBELT - "Greenbelt" means cemeteries, golf courses, parks, highway landscaping and shall include other broad expanses of landscape area including housing and other projects with common landscape uses.

GROUND WATER - "Ground water" means nonsaline and saline water beneath the natural surface of the ground, whether or not flowing through known and definite channels.

MAY - "May" is permissive.

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.

MUNICIPAL UNIT ALLOTMENTS - "Municipal Unit Allowment" means the maximum quantity of water that can be delivered by a particular water distribution system within a municipal unit in one water year beyond which permits for creation or establishment and permits for expansion of a water distribution system are not authorized for approval in that municipal unit.

MUNICIPAL UNIT - "Municipal Unit" means the Cities of Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City and Seaside and the portion of the County of Monterey and the City of Marina inside the District.

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT LAW - "Monterey Peninsula Water Management District Law" means Statutes of 1977, Chapter 527, found in West's California Water Code Appendix, Section 118-1 et. seq., as amended.

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.

NONSALINE WATER - "Nonsaline Water" means water having chemical properties meeting the drinking water standards of Chapter 15, Division 4, Title 22 of the California Administrative Code, including the maximum contaminant levels specified in Table 7 of said Chapter.

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.

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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

(A) 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.

SALT WATER INTRUSION - "Salt Water Intrusion" means the movement of saline water into nonsaline water aquifers.

SERVICE AREA - "Service Area"

(a) For public utilities means the area served by a privately owned public utility in which the facilities have been dedicated to public use and in which territory the utility is required to render service to the public as further defined by the service area map maintained by the utility;

(b) For water distribution systems other than public utilities means the area or properties for which approvals have been secured for service from Monterey County and the Monterey Peninsula Water Management District.

SHALL - "Shall" is mandatory.

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

SUB-POTABLE WATER - "Sub-potable Water" shall mean water which is not fit for human consumption without treatment, and shall include reclaimed water as that term is used in

SUSPEND - "Suspend" means to temporarily withdraw authority to act as previously provided by a valid permit.

SUSTAINED YIELD OF WELL - "Sustained Yield of a Well" means the continuous production capacity of a well as determined from a pump test.

SYSTEM CAPACITY - "System Capacity" is the amount of water in gallons, cubic feet or acre feet that can be produced for annual delivery to a water distribution system based on the cumulative sustained yield of wells adjusted for periodic lowering of the water table and the projected yield of other sources of supply.

USER - "User" means a customer or consumer of water delivered by a water distribution system. User does not include any owner or operator of a water distribution system. Each residence, commercial enterprise, or industrial enterprise shall be deemed a separate and distinct user.

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 two or more connections including all water-gathering facilities and water-measuring devices, but excluding 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, ground water, surface water, water courses, or reclaimed water sources 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.

WATER-MEASURING DEVICE - "Water-Measuring Device" means any water meter or other measuring device intended to measure water usage by a user of the water distribution system.

WATER YEAR - "Water Year" means the period from July 1 of one year to June 30 of the succeeding year.

WELL - "Well" means any device or method, mechanical or otherwise, for the production of water from ground water supplies within the District excluding seepage pits and natural springs. "Existing Well" means a completed well which is producing or capable of producing ground water on July 9, 1980, or a well which

affected by that permit has reached its expansion capacity limit as provided by Rule 40. 19

- (4) The General Manager shall not issue an expansion/extension permit when the municipal unit in which the expansion or extension is to be located has exceeded its municipal unit allocation for that water distribution system pursuant to Rule 30.
- (5) The General Manager shall not issue an expansion/extension permit when the General Manager determines such expansion or extension is not reasonably required to satisfy the near term needs of the applicant.
- (6) The General Manager shall not issue an expansion/extension permit when any portion of the expansion or extension lies outside of the affected water distribution system service area.
- (7) The General Manager shall not issue an expansion/extension permit until all fees and connection charges are paid by, or on behalf of, the applicant.
- (8) **The General Manager shall not issue an expansion/extension permit which would allow the use of potable water in excess of 5 acre feet for green-belt irrigation when alternate sub-potable water is reasonably available to the applicant (see Rule 23 C 130 and 131).**

Determinations of the General Manager under this Rule, either issuing or refusing to issue a permit, may be appealed to the Board pursuant to Rule 70.

B. Temporary Expansion/Extension Permits.

Notwithstanding any provision of Rule 23 (A), the General Manager may issue a temporary expansion/extension permit to applicants who do not possess a valid municipal or county building permit as provided in Rule 23 (A), provided the applicant has demonstrated that the expansion is reasonably necessary to satisfy the near term water needs of the applicant. Each temporary expansion/extension permit issued by the General Manager shall be subject to the following conditions:

- (1) The temporary permit shall not confer a property interest upon the grantee to obtain or use water after expiration and/or revocation of the permit.
- (2) The temporary permit is subject to revocation during its term without cause, without hearing, upon thirty (30) days' notice.

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- (3) The temporary permit shall terminate on the date specified on the permit, and if no date is specified, shall terminate one (1) year after the temporary permit is issued.
 - (4) Any use of water through the connection or water meter installed pursuant to the temporary permit following expiration and/or revocation of that permit shall be unauthorized.
 - (5) The applicant for the temporary permit shall acknowledge in writing that the temporary permit does not confer a right to obtain or use water upon expiration and/or revocation of the temporary permit.
 - (6) The applicant for the temporary permit shall consent to the physical removal of the connection and/or water meter upon the expiration and/or revocation of the temporary permit.
 - (7) The terms and conditions of the temporary permit shall be recorded in the Office of the Monterey County Recorder against the real property which is by the connections, and shall operate as a covenant running with the land.
 - (8) The applicant shall pay any applicable fee pursuant to Rule 24 and Rule 60.

The General Manager may place further conditions upon the grant of the temporary permit as he deems proper. Determinations of the General Manager under this Rule, either issuing, conditioning, or refusing to issue a temporary permit, may be appealed to the Board pursuant to Rule 70.

Rule 23 C. Process

The General Manager shall review each application, and if he determines the application to be incomplete, he shall request the applicant to submit additional information. When the application is complete, the General Manager (or the Board of Directors for those applications not acted upon by the General Manager) shall:

- 1. Classify any proposed connection as Residential, Commercial, or Industrial as defined in these Rules. If such proposed connection cannot be adequately categorized pursuant to existing data, the General Manager or the Board of Directors by exercise of discretion may require additional information, or define such connection as either Residential, Commercial, or Industrial based upon the quantity of anticipated water use by said connection. Determination of connection categorization by the General Manager may be appealed pursuant to Rule 70.**

- 2. For each application which proposes to use potable water the General Manager or the Board of Directors shall determine whether or not an alternate supply of water, including sub-potable water, is reasonably available to that applicant. Facts to support this decision may be derived from existing data, or from a scope of work required of the applicant. The decision regarding reasonable availability of sub-potable water shall conform to the findings set forth in Rule 130. The burden of establishing the non-availability of any alternate water supply, including sub-potable supplies, shall rest with the applicant.
- 3. Each permit may have conditions placed upon the use of water allowed by that connection in accord with subdivision C of this Rule. Conditions may be devised to minimize non-essential uses of potable water.
- 4. After each connection is categorized, the non-availability of alternate supplies has been determined, and appropriate conditions have been drafted, and when the General Manager is authorized to act on the application pursuant to subdivision A of this Rule, the General Manager shall issue the permit within thirty (30) days.
- 5. When the General Manager is not authorized to act on an application, or when the General Manager does not act within thirty (30) days, action on the application shall be referred to the Board of Directors for action in accord with this subdivision.

RULE 23 D. Conditions

The Board, or the General Manager on those applications acted upon by the General Manager, may place conditions upon the grant of any expansion/extension permit. For any permit which would allow the use of potable water for greenbelt irrigation, the following condition shall be imposed:

- 1. The holder of this permit, or the holder's successor in interest, shall not use water derived from this connection to irrigate any greenbelt area during those times that the Board of the Monterey Peninsula Water Management District has declared by resolution that sub-potable water as defined by the District's Rules and Regulations is reasonably available for such use.

RULE 24. Connection Charge

- A. Determination of Charge
Each applicant for a permit to expand or extend a water distribution system, including applicants seeking to relocate or change the size of a connection or a water-

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.

Regulation XIII Sub-potable Water

Rule 130 Sub-potable Water Alternative

The Board of the Monterey Peninsula Water Management District may declare, by resolution, the availability of sub-potable water resources in those instances where sub-potable water supplies provide a reasonable alternative for use of irrigating greenbelt areas. To support a declaration that sub-potable water is reasonably available for the irrigation of any specific greenbelt area, the Board shall find:

- (a) The source of sub-potable water is of adequate quality ²³ for such use and is available for such use.
- (b) Such sub-potable water may be furnished to the greenbelt area at a reasonable cost. In determining reasonable cost, the Board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying potable domestic water to the affected greenbelt area and the present and projected costs of supplying sub-potable water to such areas, and shall find that the supply of such sub-potable water is reasonably available.
- (c) After concurrence with the State Department of Health Services, and the Environmental Health Officer for the County of Monterey, the use of sub-potable water from the proposed source will not be detrimental to public health.
- (d) Such use of sub-potable water will not adversely affect downstream water rights, will not degrade water quality, and is determined not to be injurious to plantlife.
- (e) That all requirements of section 13550 of the Water Code have been met.

Rule 131 Sub-potable Water Conversions

In each instance where the Board pursuant to Rule 130 has declared that sub-potable water supplies provide a reasonable alternative for present water users, and where the Board determines to cause existing greenbelt irrigators to discontinue use of potable water for such irrigation, the Board shall set a public hearing to declare, by ordinance, such water use to be wasteful and nonessential.

The General Manager shall post notice upon each property affected by the ordinance, shall mail notice to each user affected by such notice, and shall publish notice of the hearing on the ordinance. All notices shall be given at least ten (10) days prior to the hearing. At the hearing, each water user, property owner, or other interested person may present evidence concerning the ordinance. The Board may continue the hearing to such other times or places as necessary.

At the conclusion of the hearing, the Board shall adopt or deny the ordinance. Except in circumstances of extreme emergency, a first and second reading of the ordinance shall be required. The ordinance shall determine:

- (1) Each finding required by Rule 130 of this Regulation,
- (2) The descriptions of each parcel affected by the

ordinance,

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- (3) That use of potable water for greenbelt irrigation on the affected parcels constitutes either a waste of potable water, or a nonessential use of potable water pursuant to Section 332 of the Monterey Peninsula Water Management District Law,
- (4) The period of time (if any) during which each greenbelt user may continue to use potable water for irrigation to facilitate the change to sub-potable water for such uses.

Rule 132 Supplemental Authority

The provisions of this regulation shall be in addition to those powers specified in Regulation X, Rules 100 through 104.