

ORDINANCE NO. 12

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ESTABLISHING USER FEES UPON
DISTRICT WATER DISTRIBUTION SYSTEMS**

The District Board makes the following findings of fact in support of its action on Ordinance No. 12.

Water Management

1. The California Legislature has declared that there is a need to augment the supply of potable water on the Monterey Peninsula from ground and surface water sources;

2. The California Legislature has charged the Monterey Peninsula Water Management District with responsibility for the integrated management of water resources and problems affecting the Monterey Peninsula and the Carmel River basin;

3. Growth projections indicate that the current supply of potable water available to water distribution systems serving the Monterey Peninsula will not be sufficient to provide for future domestic and municipal use;

4. The Monterey Peninsula has a current need to augment the future supply of potable water available for use to the area;

5. The Monterey Peninsula Water Management District desires to protect flows of the Carmel River, and its surrounding environs and to this end is promulgating a Carmel River Management Plan pursuant to Ordinance #10 to protect the Carmel River and its riparian corridor including visual aspects and value as wildlife habitat, to stabilize the river channel, and to promote the public health and safety by lessening potential local erosion damage and flood related hazards;

Allocations

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6. The Monterey Peninsula Water Management District has implemented a system for the allocation of unutilized potable water supplies among the various cities and county areas within the largest water distribution system in the District, and has established limits upon the amount of potable water which may be delivered by each water distribution system in the District;

7. The Monterey Peninsula Water Management District, acting pursuant to Section 363 of its enabling statute, has allowed District water distribution systems to add service connections and to expand their service areas, and by such action has reserved capacity and has made a commitment to such new water users to provide them with potable water and service facilities;

Water Rationing

8. The Monterey Peninsula Water Management District has adopted a water-rationing ordinance to regulate water use to guarantee a fair distribution of potable water when the demand exceeds the capacity of District water supplies;

Augmentation

9. The Monterey Peninsula Water Management District intends to augment the supply of potable water available to water distribution systems to meet domestic and municipal water demand on the Monterey Peninsula and throughout the District;

10. The California Legislature has found that the privately owned water suppliers do not have the facilities nor the ability to raise sufficient capital to meet these augmentation needs or regulate the distribution of water within the District;

11. The augmentation of District water supplies will benefit all water distribution systems within the District, as well as the public generally; ⁶⁸

12. The Monterey Peninsula Water Management District has examined alternate methods of augmenting potable water supplies and of conserving existing water supplies;

13. The precise cost of preliminary water augmentation project expenses is not at this time ascertainable; but certain threshold costs regarding environmental review, project design, engineering, revenue funding, and election expenses are substantial and do not vary significantly from project to project;

14. Preliminary augmentation project expenses are in part mandated by other public agencies, including but not limited to the California Department Fish and Game, and the California State Water Resources Control Board. These preliminary expenses cannot be avoided due to the regulatory control exercised by such public entities, and such expenses are incurred for the providing or the availability of augmented District water and District services;

Flood Hazard

15. The Monterey Peninsula Water Management District has implemented a flood hazard warning program to monitor and publicize the degree of risk attendant to flood events, and to assist in the management and operation of surface reservoirs in the Carmel Valley;

Ground Water Monitoring

16. The Monterey Peninsula Water Management District has implemented a ground water monitoring program to record the

quantity of potable water annually extracted by overlying residents, and extracted for export from the groundwater basin by District water distribution systems;

17. The Monterey Peninsula Water Management District has conjunctively undertaken a pilot study with the largest water distribution system in the District to examine the groundwater drawdown effects caused by certain wells operated by that system, and to devise an irrigation program to ameliorate vegetative impacts caused by drawdown;

18. The Monterey Peninsula Water Management District has developed two digital computer models that simulate the behavior of the Carmel alluvial basin to facilitate optimal groundwater management of that potable water resource;

19. The Monterey Peninsula Water Management District has drilled seven water quality monitoring wells in Carmel Valley and regularly conducts water quality analyses of that potable water resource;

20. The Monterey Peninsula Water Management District has completed a waste water management study of the Carmel Valley in conjunction with the County of Monterey to examine the capacity of the groundwater basin to accomodate additional septic loading;

River Management Program

21. The Monterey Peninsula Water Management District has formed an improvement zone (Zone #3) which facilitates management of the Carmel River, and will perform works and projects for the partial benefit of the zone;

22. The Monterey Peninsula Water Management District is in the process of promulgating its Carmel River Management Plan which

will protect the water course, the watershed, public ways, life⁷⁰ and property in the zone; and promote the restoration of river banks and scenic resources; and reduce environmental degradation which has affected fish and wildlife habitat;

23. The aggregate benefit assessment which has been derived by the Monterey Peninsula Water Management District from Zone #3 for fiscal year 1983/1984 is \$44,600.00. A similiar assessment, adjusted only for consumer price index (CPI) purposes, will be collected for the next nine fiscal years;

24. Implementation costs for the River Management Zone derive in part from, and shall be paid in part by, voter approved benefit assessments upon Zone #3 properties; Zone project costs which are to the exclusive benefit of lands within this zone shall be paid from zone assessments;

25. The Monterey Peninsula Water Management District, in its fiscal 1983/1984 budget, has allocated \$149,600.00 to fund expenditures of the Carmel River Management Program. In addition to this budgeted amount, the District regularly expends general District monies to fund non-budgeted expenses of the Carmel River Management Program, including but not limited to administrative services, District staff services, special consultant services, and legal and accounting support;

26. Other activities contemplated by the Carmel River Management Plan should be partially funded and paid by water distribution system users as such costs inure to the common benefit of water users, and to the common benefit the District water distribution systems which derive water from the Carmel River basin;

27. The amount of the user fee to be collected is not insufficient to fund extensive administrative or collection costs, and the assessment of such user fee against individual well users and small water systems with less than 50 user connections would not be cost effective;

28. The only water distribution systems within the Monterey Peninsula Water Management District which derive a portion of their potable water supply from the Carmel River basin, and which possess 50 or more user connections are the California-American Water Company (Cal-Am) and Water West;

29. Effective July 1, 1983, the estimated number of user connections in the Cal-Am system was 31,647, and the estimated number of user connections in the Water West system was 470;

Water Distribution System Services

30. The Allocation Program, the Water Rationing Regulation, the preliminary Augmentation Project work, the Flood Hazard Warning Program, the Groundwater Monitoring Program, and the River Management Program undertaken by the Monterey Peninsula Water Management District constitute services which have been furnished by the District on behalf of, and which have inurred to the benefit of the water distribution systems of the Monterey Peninsula, and to the water consumers they serve;

31. Expenditures made by the Monterey Peninsula Water Management District to fund portions of the Carmel River Management program will alleviate burdens that are placed upon the Carmel River by reason of water extraction and exportation caused by District water distribution systems and other water consumers;

32. The Monterey Peninsula Water Management District cannot fully fund its management, monitoring, augmentation and river restoration programs from general fund revenues to fully discharge, in a timely manner, the duties delegated by the California Legislature, and to fulfill the current needs of District water distribution systems and their water consumers;

33. The Monterey Peninsula Water Management District is authorized to impose connection fees and connection charges upon systems and users who benefit from services which have been furnished by the District;

NOW THEREFORE, BE IT ORDAINED that the amendments shown as underscored on the attached Exhibit "A" and incorporated herein by reference, are adopted on second reading to the District's Rules and Regulations.

On motion of Director Heuer and seconded by Director Lee, the foregoing ordinance is duly adopted this 9th day of April, 1984, by the following votes.

AYES: Directors McClintock, Heuer, Townsend, Williams,
Lee and Bernardi

NAYES: None

ABSENT: Director Peters

I, Gladys McKillop, Secretary of the Board of Directors of the Monterey Peninsula Water District, hereby certify that the

foregoing is a full and true copy of an ordinance duly adopted on the 9th day of April, 1984, and now is of record in my office.

Witness my hand and seal of the board of Directors this 10th day of April, 1984.


Gladys McKillop, District Secretary

Exhibit "A"

Ordinance No. 12

The following additions, deletions, and modifications are made to the Rules and Regulations of the Monterey Peninsula Water Management District:

Section One:

Section C of Rule 121 shall be renumbered as Rule 64, subdivision A, and shall be amended to read:

Rule 64. Water Distribution System User Fees. ~~C. User Fees.~~
~~River Management Water Distribution System~~ User Fees shall be administered pursuant to this Regulation.

- ~~1. A) Each water distribution system which possesses 50 or more connections and derives all or a part of its potable water supply from the Carmel River watershed, or from the Carmel Valley aquifers shall be subject to a River Management Water Distribution System user fee. The owner or operator of each water distribution system shall ~~collect~~ pay 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 water user receives his/her water bill~~
 - ~~c) the amount of water each user consumed during the preceding 12 months.~~

Section Two:

Section D of Rule 121 shall be renumbered as Rule 64, subdivision B, and is amended to read:

~~D. B) Calculation of River Management Water Distribution System User Fees.~~

- ~~1. The Board of Directors shall determine annually the amount of River Management Water Distribution System user fee to be collected pursuant to this Regulation after receiving the recommendation of the Carmel River Advisory Committee. The maximum basic fee to be collected to fund programs undertaken pursuant to Regulation XII of these Rules and Regulations ~~pursuant to this user fee~~ shall not exceed a District-wide aggregate of~~

\$117,000 per fiscal year, provided, however that such maximum basic fee sum shall increase or decrease each year by the consumer price index (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 basic user fee shall not exceed \$234,000 for any reason. In addition to the basic fee collected pursuant to this rule, the Board of Directors may establish an additional surcharge upon the basic fee to fund estimated administrative overhead and noncollectible fees which may necessarily result from the imposition of the basic fee upon District water distribution systems. No user fee shall be made pursuant to this rule which will fund programs undertaken pursuant to Regulation XII of these Rules and Regulations on or after July 1, 1993.

2. The basic user fee for fiscal year 1983/1984 shall be a District-wide aggregate of \$ 117,000, and the surcharge shall be 10% of that basic fee (\$ 11,700), the proportionate share of which shall be charged against each applicable water distribution system according to the following formula:

$$\frac{\text{basic fee} + \text{surcharge}}{\text{total number of users in all water distribution systems subject to user fees.}} \times \frac{\text{number of users in the water distribution system}}{\text{total number of users in all water distribution systems subject to user fees.}} = \text{user fee chargeable to each water distribution system}$$

~~2.~~ 3. Prior to setting the user fee and surcharge to be collected for fiscal year 1984/1985, and for each subsequent year, including Fiscal Year 1983-84, the District Board shall first conduct a public hearing regarding river management needs, water distribution system services utility user, and water distribution system 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 Regulation XII;
- b) the estimated amount of assessments which will fund specific river management works;
- c) the total amount of basic user fee to be collected pursuant to this Rule ~~64 regulation;~~
- d) the total amount of additional surcharge to be collected pursuant to this Rule 64;
- e) the total amount of any other user fee to be charged;
- ~~d) the manner in which the fee is to be collected, and~~
- f) the total amount of General Funds, if any, to be used to fund river management activities pursuant to ~~this~~ Regulation XII;

g) an estimate of the number of user connections in each water distribution system subject to the user fee, effective July 1st of each year.

4. Water Distribution System user fees established by the Board shall be collected annually from each applicable water distribution system following the formula set forth above in this Rule 64. Each water distribution system may elect to pay its user fee to the District in installments during the following fiscal year. Each water distribution system may elect to pay future user fees to the District in quarterly installments, provided that full payment is tendered during that fiscal year. Water distribution systems are required by this Rule 64 to tender payment of user fees for fiscal years 1983/1984 on or before June 30, 1985.

5. In the event that the California Public Utilities Commission, following an application for approval submitted by a regulated utility, should fail to allow that utility to collect from its customers the user fees imposed pursuant to this Rule 64, the user fees enacted herein shall have no further force or effect.

~~3. A separate user fee amount may be established by the Board for each size of water meter, provided 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.~~