

ORDINANCE NO. 34

AN ORDINANCE OF THE  
BOARD OF DIRECTORS OF THE  
MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT  
AUTHORIZING THE EXPENDITURE OF  
CONNECTION CHARGE FUNDS FOR THE  
DEVELOPMENT OF NEW WATER SUPPLIES

The Board of Directors adopts the following findings in support of its action on this ordinance.

FINDINGS

1. The California Legislature has found that the Monterey Peninsula area has a need to augment its supplies of potable water. For this reason, the Monterey Peninsula Water Management District was created as the sole agency which exercises integrated management of water resources. The Legislature further found and declared that local water suppliers did not have the facilities or ability to finance water projects for this area.
2. The Monterey Peninsula Water Management District Board of Directors has adopted a goal to augment the supply of potable water available to the area to reduce the effect of drought, to improve the river environment, and to accommodate planned growth within the communities of the Monterey Peninsula. To develop the new supply of water, the Water Management

District has proposed a new water supply dam on the Carmel River, and is presently completing the federal and state review leading to the issuance of permits and the commencement of construction.

3. The Finance Advisory Committee to the Board of Directors of the Monterey Peninsula Water Management District recommended in 1984 that new and expanded users of water should pay a substantial share of the costs related with the development of new water supplies for the Monterey Peninsula.
  
4. The Water Management District implemented this financing recommendation by adopting its Rule 24 pursuant to Ordinance No. 21 of March 11, 1985, which substantially increased water meter connecting charges and created a sinking fund. The sinking fund was established for the sole purpose of planning for, acquiring and/or reserving augmented water supply capacity for District water distribution facilities. The Board of Directors recognized that those purposes included engineering, hydrologic, geologic, fishery, appraisal, financial, and property acquisition endeavors. The sinking fund was expressly created to defray costs to acquire, maintain and/or reserve capacity in existing water distribution facilities to ensure service to all water users.

5. The validity of District connection charges was determined by an in rem validation proceeding under section 860 of the California Code of Civil Procedure. By order of the Superior Court in Case No. M 15851 it was determined that the connection charge implemented by Rule 24 of Ordinance No. 21 was valid and correct. The court found a nexus between the amount of the charge, and the capacity for water service for which the user has a beneficial interest.
  
6. Rule 24 requires the Water Management District Board of Directors to conduct a public hearing on or before December 1, 1991, to determine whether or not the collection of connection charges should be amended to eliminate or substantially abandon the water supply improvement charge. In addition, Rule 24 places a restriction upon the present use of 81.33% of the connection charges until after final discretionary approval of the water supply project. This restriction is not a requirement of law, was incorporated in Rule 24 upon motion of the Board of Directors, and may be modified at the pleasure of the Board.
  
7. Present funding of the New San Clemente Dam water supply project is substantially impeded by the limitation upon use of 81.33% of connection charge funds. This fund deficit will delay project related activities, or will force the Water

Management District to borrow funds, thereby increasing the costs of the project.

- 8. The voters of the Monterey Peninsula, at the District General Election of November, 1987, expressed clear direction that the planning for the New San Clemente Dam project should proceed without delay.

NOW THEREFORE BE IT ORDAINED THAT THE FOLLOWING PROVISION OF RULE 24, PARAGRAPH K, SHALL BE DELETED FROM THE RULES AND REGULATIONS OF THE WATER MANAGEMENT DISTRICT:

Notwithstanding any other provision of this ordinance, the expenditure of funds maintained in connection charge account "B" shall not be authorized prior to the final discretionary approval of a water supply project, including, if necessary for the project, a vote of the people.

On motion of Director Davis and second by Director DeBerry, the foregoing ordinance is duly adopted this 9th day of May, 1988 by the following vote:


AYES: Directors Pendergrass, DeBerry, Strasser Kauffman, Heuer, Lombardo, Hughes and Davis

NAYES: None

ABSENT: None

I, Bruce Buel, Secretary to 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 9th day of May, 1988.

Witness my hand and seal of the Board of Directors this 11th day of May, 1988.

  
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Bruce Buel, Secretary to the Board