

ORIGINAL

12-16-88

Exhibit A

ORDINANCE NO. 37

AN URGENCY ORDINANCE OF THE
BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ESTABLISHING PHASE III WATER RATIONING RULES

ORDINANCE

Section One: Statement of Purpose

The Monterey Peninsula Water Management District enacts this Urgency Ordinance to establish rules and standards for Phase III of the present water supply emergency which has been declared in accord with Section 332 of the District Law. This ordinance establishes prohibitions upon water waste and non-essential uses of water, and sets the Phase III response level for the water supply emergency which has been declared by the District in Ordinance No. 35. This ordinance provided for the administration and management of water rationing and includes a provision for the temporary collection of fees to fund emergency activities required during this water shortage. This Ordinance shall amend and supersede those provisions of Section Two, Section Five, and Section Seven (Phase III - Mandatory Water Use Restrictions) in Ordinance No. 35, and shall further amend the sunset clause for

that ordinance, but in all other respects shall be construed to compliment and not supersede the provisions of that Ordinance. This ordinance shall be further read in conjunction with and compliment those provisions of the District's Rules and Regulations.

The purpose of this Ordinance is to ensure that consumptive use of potable water during Phase III of the present water supply emergency does not exceed anticipated water supplies available to the District. This Ordinance is required to meet the health and safety requirements of the communities served by the District. As time is of the essence, this ordinance shall be adopted with urgency effect.

Section Two: Phase III Rationing Standard

The mandatory water use restrictions imposed by reason of Phase III are established to achieve reductions in potable water consumption by a factor of twenty (20%) percent. The imposition of Phase III water ration standards shall be effected by Resolution of the Board of Directors in accord with the process set forth in Ordinance No. 35. The Resolution implementing Phase III may predate the effective date of this ordinance. Phase III rationing standards shall apply to potable water users within the Monterey Peninsula Water Management District who derive water

from any Water Distribution System or private well as listed in Ordinance No. 35, including all water gathering facilities as defined by the District Rules and Regulations, unless otherwise provided for in the Resolution which effects the water rationing Phase change from Phase II to Phase III.

The imposition of any moratorium on new water connections shall not apply to any Phase of water use restrictions pursuant to this ordinance or Ordinance No. 35, except as may be provided by the Board of Directors in the standards promulgated for administration of Phase IV water rationing.

Section Three: Commercial, Industrial and Public Use Water Rations for Phase III

A. Percentage Reduction Requirement.

During Phase III of this water supply emergency, all commercial, industrial, and public authority water users shall during any billing period limit current potable water use to eighty (80%) percent of the water use recorded for the same user for the equivalent billing period in the base year. Any water user in this classification which also includes a mixed residential use shall similarly comply with the reduction to eighty (80%) percent of use during the equivalent billing period in the base year. Unless

otherwise provided by an exception set forth in this Ordinance, or by a written variance, the base year shall be the water year which commenced October 1, 1987, and which ended September 30, 1988. Water users in this classification which do not have established water use billing records for the base year, including individual (non water distribution system) well users, shall limit current water use to eighty (80%) percent of the water which would have been presumed to have occurred in the event a billing record has been created. The General Manager shall administer this provision in accord with guidelines promulgated by Resolution of the Board of Directors. Those guidelines shall address water users which do not have a full history of water use in the base year, water systems which do not utilize water meters, and individual well uses which are not metered.

B. Optional Commercial Baseline Standards.

Notwithstanding any reduction of water use which would otherwise be required of water users in this classification pursuant to the Percentage Reduction Requirement set forth above, each commercial, industrial, or public authority water user shall have an option to comply with an alternative baseline water ration applicable to that user's type of land use activity. The optional baseline ration shall apply only upon written request of the water user.

This request shall be in the form and manner described by the General Manager and include data which verifies the type and character of the applicant's water use with sufficient detail to enable that use to be classified as one of the use categories established for commercial, governmental or industrial expansions shown in Table No. 2 of Rule 24 in the District Rules and Regulations. The optional baseline ration shall be established at eighty (80%) percent of the average projected water use applicable to each requesting water user as determined pursuant to the formula set forth in Rule 24. The General Manager shall determine the water use type for all optional baseline rations applicable to commercial, industrial, or public authority uses. Where warranted, the General Manager may also base Commercial rations upon "special circumstance" factors as set forth in Rule 24 G of the District Rules and Regulations. The General Manager's determination under this part may be reviewed pursuant to the Rule 90 Variance process established by the District Rules and Regulations.

C. Special Category Exceptions.

Notwithstanding any other provision of Ordinance No. 35 or of this Ordinance, hospitals, nursing homes, and commercial laundries shall not be required to meet the percentage reduction requirements set forth for Phase III water rationing but shall not increase water use above base year

use except as may be allowed by a rationing variance. These special category uses shall further use all reasonable means to minimize unnecessary water use, and to avoid water waste. The term "commercial laundry" shall include any retail laundromat.

D. Notification of Phase III Water Rations.

The General Manager shall cause each water user to be notified of that user's Phase III ration by means of a message on the user's water bill, or by actual written notification. The eighty (80) percent water ration factored upon actual bills, presumed water use, or the alternate ration process set forth above but shall be subject to modification pursuant to both the streamlined and informal Rationing Variance (Section Six below, and Section Eleven-Ordinance No. 35) and the formal Rule 90 Variance process established by the District Rules and Regulations.

Section Four: Residential Water Use Rations for Phase III

A. Percentage Reduction Requirements

During Phase III of this water supply emergency all residential water users shall during any billing period limit current potable water to eighty (80) percent of the water use recorded for the same user for the equivalent

billing period in the base year. Unless otherwise provided by an exception set forth in this Ordinance, or by a written variance, the base year shall be the water year which commenced October 1, 1987, and which ended September 30, 1988. Water users in this classification which do not have established water use billing records for the base year, including private or individual (non water distribution system) well users, shall limit current water use to eighty (80) percent of the water which would have been presumed to have occurred in the event a billing record had been created. The General Manager shall administer this provision in accord with guidelines promulgated by Resolution of the Board of Directors. Those guidelines shall address water users which do not have a full history of water use in the base year, water systems which do not utilize water meters, and individual well uses which are not metered.

B. Residential Lifeline Exception.

Notwithstanding any reduction of water use which would otherwise be required of residential water users pursuant to the Percentage Reduction Requirement set forth above no residential household shall be required to reduce water

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consumption below the following per capita standards:

1. single person residences:

single-family detached dwelling units (houses):

122 gallons/day/person

multi-family & clustered dwelling units (apartments and
condominiums):

68 gallons/day/person

2. multi-person residences:

single-family detached dwelling units (houses):

82 gallons/person/day

multi-family & clustered dwelling units (apartments and
condominiums)

46 gallons/person/day

These Residential Lifeline exceptions shall also apply to any mixed commercial/residential use. Mixed use lifelines shall be additive, combining both the Residential Lifeline and the Optional Commercial Baseline Ration (if applicable) which may apply to that site.

C. Notification of Residential Rations.

The General Manager shall cause each residential water user to be notified of that users Phase III ration by means of a

message on the user's water bill, or by other actual written notification. The Per Capita Allowance Exception, the eighty (80%) percent water ration factored upon actual bills or presumed water use, and the alternate water ration and mixed commercial/residential use rations shall each be subject to modification pursuant to both the streamlined and informal Rationing Variance (Section Six below, and Section Eleven - Ordinance No. 35) and the formal Rule 90 Variance process established by the District Rules and Regulations.

Section Five: Administrative Implementation

A. Implementation

The General Manager shall be charged with the implementation of this ordinance, and of any restrictions or requirements imposed by Phase III set forth by this ordinance. The General Manager shall document the number of full time residents for each residential water use, but shall presume each residence has only (1) occupant for those residences who fail to respond to any reasonable inquiry. The General Manager shall also document the type and character of any commercial, industrial or public authority use which requests an optional Commercial ration. The General Manager shall maintain a separate file of each rationing variance request, and the response to that request. This file shall be available for public inspection during regular business

hours.

B. System Compliance

Each Water Distribution System listed in Ordinance No. 35 shall be required to comply with all reasonable administrative measures promulgated by the General Manager to ensure compliance with the provisions of this ordinance. Compliance shall include but shall not be limited to the collection by Water Distribution Systems of excess water use charges, installation of flow restrictors by water distribution systems for users determined by the process set forth by this ordinance to have failed to comply with rationing rules, and/or termination of water service for water waste in accord with the process set forth by this ordinance. The General Manager shall be authorized to pay upon invoice all actual, reasonable and necessary expenses which may be incurred by any public utility or water distribution system by reason of any water emergency surcharge or excess use penalty surcharge, penalty imposition, information collection, system programing, water service restrictions, or other requirements imposed by reason of this water emergency. This provision shall not be construed to allow reimbursement to a water distribution system for any revenues lost by reason of reduction in water sales.

C. Excess Water Use Surcharge

Water use in excess of the maximum ration allowed in any billing period during Phase III water rationing may cause the automatic imposition of a use fee/surcharge by the public utility or water distribution system upon the user. The water user shall be given written notice of any water use in excess of that user's ration, and notice that an excess water use surcharge shall be collected as a fee on the user's water bill in the event the water user again exceeds that user's water ration during the next billing cycle. If the water user complies with all water rationing and water waste requirements during the next billing cycle the excess use fee shall be forgiven. If the water user again exceeds that user's water ration during the following billing period, the excess use fee shall be imposed as a surcharge upon all water use in excess of that user's water ration, dating back to the original billing period for which notice of excess use had been given and extending forward until the water user consumes no more than allowed under the Phase III rationing standard. This excess water use surcharge shall be calculated as a fee for water use by the water distribution system and when collected shall be forwarded to the District. The fee shall be calculated as follows:

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EXCESS USE FEE

(1 UNIT = 748 GALLONS)

MONTHLY BILLS

1st Unit - \$25	(3.3¢/gal)
2nd Unit - \$50	(6.7¢/gal)
3rd Unit - \$75	(10¢/gal)
4th Unit - \$100	(13.3¢/gal)
5th Unit - \$125	(16.7¢/gal)
6th Unit - \$150	(20¢/gal)
7th Unit - \$175	(23.3¢/gal)
8th Unit - \$200	(26.7¢/gal)
9th Unit - \$225	(30¢/gal)
10th Unit - \$250	(33.4¢/gal)
Over 10 Units - \$250/Unit	(33.4¢/gal)

BI-MONTHLY BILLS

1st & 2nd Units - \$25/Unit
3rd & 4th Units - \$50/Unit
5th & 6th Units - \$75/Unit
7th & 8th Units - \$100/Unit
9th & 10th Units - \$125/Unit
11th & 12th Units - \$150/Unit
13th & 14th Units - \$175/Unit
15th & 16th Units - \$200/Unit
17th & 18th Units - \$225/Unit
19th & 20th Units - \$250/Unit
Over 20 Units - \$250/Unit

The fee shall apply to all water use in excess of the maximum ration applicable to that user. The General Manager, following the notification requirement set forth above, shall cause this surcharge to be collected directly from any water user if that user exceeds the monthly Phase III water ration. Any water user may seek to have the excess water use surcharge waived or forgiven through the Rationing Variance process set forth in Section Six of this ordinance upon substantial evidence that the excess water use was beyond the user's control, and was not reasonably correctable due to special and unique circumstances.

D. Water Emergency Surcharge

The General Manager shall further cause the California American water distribution system to collect a 2.05% water emergency surcharge from each water customer within that public utility system and forward those proceeds to the District in order to fund costs of administration, enforcement, education, and other necessary activities relating to the water supply emergency. The General Manager shall cause an equivalent value surcharge (per unit of water) to be collected for these purposes by every other public utility or water distribution system within the District. Each public utility or water distribution system shall collect this water emergency surcharge from each water user for a period of eighteen (18) months, unless this surcharge is earlier terminated in full or in part by Resolution of the Board of Directors. Thereafter this surcharge shall no longer be collected.

E. Modification of P.U.C. Rationing Standards

The General Manager shall take action as necessary to ensure that Rules of the California Public Utilities Commission enable any water distribution system to enforce or collect fees, charges, surcharges, or penalties pursuant to the rationing standards set forth by this ordinance, including but not limited to water restrictor installation and, when

warranted, service disconnection.

Section Six: Rationing Variance

The water use rations, baseline options, lifeline options, and water emergency surcharge mandated by Phase III of this Ordinance may be modified in writing by the General Manager or his designee upon written request, without formal application or hearing, when the modification is consistent with the District rationing and water conservation goals, and where a strict application of Phase III requirements would cause health or safety problems, cause extreme hardship, or be inapt by reason of extreme or unusual circumstances. In making this determination, the General Manager shall be guided by those principles set forth in Rule 24 of the District Rules and Regulations. Further relief may be sought by any applicant pursuant to the Variance proceeding set forth in Rule 90 of the District Rules and Regulations. The General Manager shall maintain a separate file of each rationing variance request, and the response to that request. This file shall be available for public inspection during regular business hours.

Section Seven: Sunset of Phase III Water Rationing

The Water Emergency Surcharge mandated by Section Five of this

ordinance shall be collected by each public utility or water distribution system for a period of twelve (12) months, unless earlier terminated or reduced by Resolution of the Board of Directors, and shall thereafter be discontinued. All other provisions of both Ordinance No. 35 and this ordinance declaring Phase III water use restrictions shall have no force and effect on or after December 31, 1989, except however, that the date of this sunset provision may be terminated at an earlier date or extended from time to time by Resolution of the Board of Directors upon either a finding that the present water use restrictions are no longer necessary, or in the alternative, that the water supply emergency has not ended and continued water use restrictions are necessary.

Section Eight: Publication

The provisions of this ordinance shall not be published in the Rules and Regulations of the Monterey Peninsula Water Management District.

Section Nine: Urgency Effect

The provisions of this ordinance shall have urgency effect, and shall become effective at 12:01 a.m., January 1, 1989.

On motion of Director Davis, and second by Director DeBerry, the foregoing ordinance is adopted this 12th day of December, 1988, by the following vote:

AYES: Directors Hughes, Pendergrass, DeBerry, Davis and Lombardo

NAYS: Director Heuer

ABSENT: Director Strasser Kauffman

I, Bruce Buel, 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 this 12th day of December, 1988.

Witness my hand and seal of the Board of Directors this 20th day of December, 1988.



Bruce Buel, Secretary to the Board

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