

January 11, 1989

Ordinance No. 41

RECEIVED  
JAN 23 1989

AN ORDINANCE OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
AMENDING CARMEL RIVER MANAGEMENT PRACTICES,  
THE DISTRICT'S WATER SUPPLY  
STRATEGY, AND THE WATER BUDGET PROCESS

M.P.W.M.D.

FINDINGS

1. The Monterey Peninsula Water Management District (District) was formed, among other reasons, to provide integrated management of the ground and surface water resources within the Monterey Peninsula area, including the waters of the Carmel River.
2. As the sole local agency responsible for the integrated management of water resources for the Monterey Peninsula area the District recognizes that the public trust resources of the Carmel River are to be protected, including the Steelhead Fishery habitat. The District also bears responsibility for the management and augmentation of water supplies for domestic and municipal consumptive purposes. The District has pending before the State Water Resources Control Board (SWRCB) Application 11674B (relating to SWRCB Permit 7130B) and Application 26714, each of which relate to proposed development of additional supplies of stored water on the Carmel River.
3. To fulfill its management function respecting existing water supplies, the District has adopted and regularly implements a process whereby the District monitors and regulates the manner and quantity of water which is derived for use by water distribution systems within the District. The District has recognized different hydrologic units for this purpose, and has devised a system of forecasting an annual water supply strategy to better manage the various sources of potable water supply within the District. Each water distribution system deriving its supply from more than one hydrologic management unit is in turn required to prepare an operational water supply budget to ensure compliance with the water management strategy set by the District Board of Directors. This process is established by law, and has been set forth in Regulation X (Water Resource Management) of the District Rules and Regulations (Rules 100 through 103, inclusive). This process has been informally referred to as the "Ordinance 19" process, having been initially implemented by the District Board by Ordinance 19 on November 12, 1984.
4. The existing water supply strategy process (Rule 101 B) presently provides a goal that no more than 35% of the total water production from the California American Water Company (Cal-Am) shall be derived from surface diversion, and a goal that at

least 65% of Cal-Am's total water production shall be derived from subsurface water in Carmel Valley and Seaside.

5. The Carmel River Steelhead Association (CRSA) has filed complaints before the SWRCB against both Cal-Am and Water West, asserting among other things, that unauthorized diversions are being made by those water distribution systems from the underflow of the Carmel River. These complaints allege that these activities are destroying public trust resources of the Carmel River, including but not limited to the Steelhead Fishery which is resident in the Carmel River.

6. The CRSA theorizes that the groundwater in the alluvial aquifer of the Carmel River flows in a known and definite channel and is therefore subject to the laws of prior appropriation as administered by SWRCB; Cal-Am and Water West maintain that the groundwater in the alluvial aquifer of the Carmel River is not subject to the laws of prior appropriation as administered by the SWRCB; the District has not determined a final position on the character of the groundwater of the Carmel River. This Ordinance shall not constitute a resolution or settlement of this dispute regarding the character of the groundwater of the Carmel River.

7. Representatives of Cal-Am, CRSA, Fish & Game, the District, and SWRCB and other interested individuals and entities have met to identify concerns raised by reason of the CRSA complaints, including but not limited to means designed to lessen the environmental impacts of water extraction from the Carmel River basin pending development of the long-range District water augmentation project. These meetings culminated in the District's adoption of a management plan which has been characterized as the Interim Relief Plan. The purpose and effect of this Ordinance is to implement portions of the Interim Relief Plan by amending the "Ordinance 19" process. This amendment shall modify Cal-Am's total annual water production goal so that no more than 29% (instead of 35%) shall be derived from surface diversion, and so that at least 71% (instead of 65%) shall be Cal-Am's goal for total water production derived from subsurface water in Carmel Valley and Seaside. Amendments shall also be made to the frequency of the District's review of this process. This Ordinance is intended to cause an interim settlement of the CRSA complaints and provide temporary changes to water extraction practices from the Carmel River and the alluvial aquifer of the Carmel River.

8. The District previously adopted its Ordinance No. 36 which authorized the collection of a 0.875% surcharge from the California American Water Company, Water West, and Seaside Municipal water distribution systems to fund Carmel River management requirements. The application of that fee upon water users of the Seaside Municipal water distribution system is inapt as that system derives its water supplies entirely from the ground water resources of the Seaside Ground Water Basin.

9. The District finds and determines that this Ordinance is consistent with the Legislative declarations respecting protection of the "scenic, cultural, and recreational resources" of the Monterey Peninsula as set forth in Section 2 of Chapter 527 of the Statutes of 1977. The District further finds that this request would serve the public good and can presently be accommodated without detriment to water users of the District.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

**SECTION ONE: MODIFICATIONS RESPECTING WATER SUPPLY STRATEGIES AND WATER BUDGETS FOR TOTAL ANNUAL WATER PRODUCTION TO BE DERIVED BY THE CALIFORNIA AMERICAN WATER COMPANY FROM SURFACE DIVERSIONS FROM THE CARMEL RIVER.**

A. The following modifications shall be made to the District's Rules and Regulations, Rule 101 B (Water Supply Management Strategies):

1. The percentages set forth in the following sentence contained in Rule 101 B,

The water supply management strategy adopted for the California American Water Company shall include a goal that no more than 35% of that water distribution system's total production be derived from surface diversion and a goal that at least 65% of its total production be derived from subsurface water in Carmel Valley and Seaside.

shall be changed from 35% and 65%, respectively, to 29% and 71%, respectively.

2. All references to the annual review of water supply management strategies contained in Rule 101 B shall be changed to require a quarterly review.

B. The following modifications shall be made to the District's Rules and Regulations, Rule 101 C (Draft Operational Water Supply Budgets Prepared by Water Distribution Systems):

All references to the annual preparation of operational water supply budgets contained in Rule 101 C shall be changed to require a quarterly preparation and submittal.

C. The following modifications shall be made to the District's Rules and Regulations, Rule 101 D (Approval of Operational Water Supply Budgets):

All references to the annual review of operational water

supply budgets contained in Rule 101 D shall be changed to require a quarterly review.

**SECTION TWO:           MODIFICATIONS   RESPECTING   FEE   COLLECTION   FOR  
                          CARMEL RIVER MANAGEMENT PRACTICES**

The following amendment shall be made to District Ordinance No. 36 which authorized the collection of a 0.875% surcharge from the California American Water Company, Water West, and Seaside Municipal water distribution systems:

All references to the Seaside Municipal water distribution system shall be deleted, and the surcharge shall not apply to water users in that system.

**SECTION THREE:   PUBLICATION**

The provisions of section one of this ordinance shall be published in the Rules and Regulations of the Monterey Peninsula Water Management District as Amendments to Rule 101. The provisions of section two of this ordinance shall not be published in those Rules and Regulations. Except as shown, no other changes shall be made to those rules.

**SECTION FOUR:   SEVERABILITY**

If any subdivision, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

//

//

//

On motion of Director Davis and second by Director Hughes, the foregoing ordinance is duly adopted this 13th day of March, 1989, by the following votes:

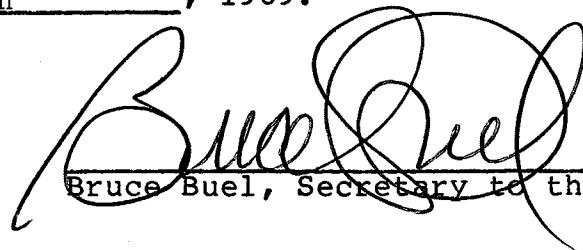
AYES: Directors DeBerry, Lombardo, Davis, Heuer and Hughes

NAYES: None

ABSENT: Directors Strasser Kauffman and Fisher

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 a ordinance duly adopted on the 13th day of March, 1989.

Witness my hand and seal of the Board of Directors this 15th day of March, 1989.



Bruce Buel, Secretary to the Board

df3/samplado.pt