

ORDINANCE NO. 45

AN ORDINANCE OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AUTHORIZING FEES FOR IRRIGATION PLAN
ACTIVITIES AND REDUCING CONSERVATION PROGRAM FEES

FINDINGS

1. The Monterey Peninsula Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the water resources of the Monterey Peninsula.
2. The State Water Resources Control Board (SWRCB) is a State agency which is responsible, among other things, for the administration of certain claims and disputes respecting water rights and water resources throughout the State. The Carmel River Steelhead Association (CRSA) is a California nonprofit public benefit corporation which has had a concern about issues affecting the Carmel River and life forms which are dependent upon the Carmel River habitat.
3. The CRSA had filed complaints before the SWRCB asserting among other things, that unauthorized diversions were being made from the underflow of the Carmel River which were destroying public trust resources of the Carmel River, including but not limited to the Steelhead Fishery resident in the Carmel River.
4. The CRSA maintains 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; others 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; MPWMD has not determined a final position on the character of the groundwater of the Carmel River. Informed experts acknowledge that technical or legal contest of this dispute regarding the character of the groundwater of the Carmel River would be both lengthy and expensive, and could modify property rights and water supply practices of this area which have been assumed throughout this century.
5. Representatives of CRSA, MPWMD, SWRCB, local utilities, state agencies, and other interested individuals and entities met during late 1988 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 MPWMD water augmentation project. These

meetings produced an understanding characterized as the "Interim Relief Plan" the purpose and effect of which has been to an interim settlement of the CRSA complaints respecting Carmel River issues surrounding the rescue and rearing of fish, irrigation of riparian vegetation, release of waters from the San Clemente Dam, and pumping from the Carmel River alluvial aquifer.

6. The District Irrigation program is now a required component of existing water supply practices to provide temporary relief for the Carmel River and the alluvial aquifer of the Carmel River, and the life forms dependant upon riparian flows. The Water Management District has undertaken specific irrigation responsibilities to cause and implement activities required by the Interim Relief Plan to ease environmental impacts of water production. These programs provide direct and tangible benefits to water consumers, and avoid the specter of current water rights litigation. The annual cost to the Water Management District of these activities is estimated to be \$230,000 per year; this Ordinance shall authorize the collection of a user fee to fund these costs.
7. The aggregate cost to the Water Management District of the conservation program contemplated by District Ordinance 29 was \$76,000 each year for the four (4) years, 1989 through 1993. That revenue stream was funded through charges fixed by Ordinance No 29, and collected by district water utilities on their water bills. Due to program economies, that revenue is no longer required by the District; this Ordinance shall accordingly authorize a reduction in the collection of those user fees.
8. The net effect of the parallel charge reduction and charge implementation shall cause no net change in the cost of water to the water utility consumer, and instead effect a transfer of revenues from the water conservation program authorized by District Ordinance 29 to the District irrigation activities.

THEREFORE, BE IT ORDAINED, by the Board of Directors of the Monterey Peninsula Water Management District as follows:

SECTION ONE: PURPOSE

It is the purpose of this ordinance effect a parallel charge reduction and charge implementation which shall cause no net change in the cost of water to the water utility consumer. This ordinance is required to fund the mandated District irrigation activities, and to reduce the fund collection no longer needed by reason of program savings realized in the conservation kit program. This ordinance effectively transfers revenues from the water conservation program authorized by District Ordinance 29 to the irrigation programs.

SECTION TWO: CHARGE REDUCTION

The General Manager shall cause each district water distribution system which collects charges authorized pursuant to Ordinance 29 to reduce fees so that the aggregate collection of program fees is reduced by the amount of fees collected by the District in accord with Section Three of this ordinance.

SECTION THREE: CHARGE IMPLEMENTATION

The General Manager shall cause District water distribution systems of fifty (50) connections or more to implement a fee equal to 4.175 percent of the water use charge. This fee shall be a surcharge on each water distribution system bill, and shall be effected in a manner to distribute the charge as equitably among water users as practicable based upon quantity of use.

SECTION FOUR: REVENUES IN EXCESS OF APPROPRIATIONS LIMIT

For revenues not required by the continuing provisions of Ordinance 29, the General Manager shall cause any tax proceeds received by the Water Management District in excess of that amount appropriated in compliance with California Constitution, Article XIII B to reduce and offset, in full or in part, the fee authorized by Section Three of this ordinance.

SECTION FIVE: EFFECTIVE DATE AND SUNSET DATE

This ordinance shall take effect 30 days following its adoption, provided that the General Manager shall cause the fees authorized by this ordinance to be collected beginning January 1, 1990. This fee shall be collected only for that period of time the District is required to implement the program activities mandated by District irrigation programs. Thereafter, the fee shall sunset by operation of law.

SECTION SIX: CONJUNCTIVE APPLICATION

The provisions of this ordinance are intended to compliment and to be read conjunctively with the Rules and Regulations and other ordinances of the Water Management District. All definitions used in the District Rules and Regulations shall apply to this ordinance. Except as applied to Ordinance 29, this ordinance shall not be construed to limit or supersede any other District rule, regulation, or ordinance.

SECTION SEVEN: SEVERABILITY

If any section, sub-section, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases may be declared invalid.

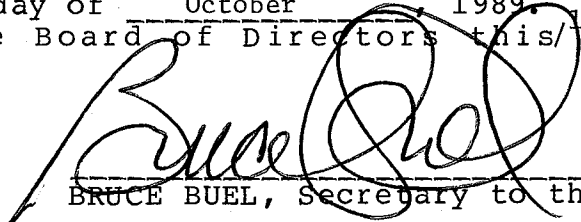
SECTION EIGHT: PUBLICATION

The provisions of this ordinance shall not be published as part of the Rules and Regulations of the Water Management District.

On motion of Director Heuer and second by Director Hughes the foregoing ordinance is duly adopted this 9th day of October, 1989, by the following votes:

- AYES: Directors Fisher, DeBerry, Strasser Kauffman, Lombardo, Heuer, Davis and Hughes
- 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 October, 1989. Witness my hand and seal of the Board of Directors this 9th day of October, 1989.


BRUCE BUEL, Secretary to the Board

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(rev 10/89)