

ORDINANCE NO. 55

AN ORDINANCE OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
MODIFYING ITS FEE STRUCTURE TO
AUTHORIZE NEW FEES FOR MITIGATION MEASURES
REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
AND TO END COLLECTION OF FEES ENACTED
FOR OTHER RELATED ACTIVITIES

FINDINGS

1. The Monterey Peninsula Water Management District is charged by the Monterey Peninsula Water Management District Law to integrate management of the water resources of the Monterey Peninsula.
2. The Water Management District previously adopted Resolution 90-22 and Ordinance No. 52 to certify the Water Allocation Program EIR, determine the quantity of water available for use, and select measures to mitigate environmental impacts associated with that level of water use. The Water Allocation Program defines how much water may be produced annually from the Monterey Peninsula Water Resource System given the need to protect in-stream fish and wildlife resources, protect riparian resources, assure adequate drought protection, and prevent seawater intrusion.
3. The Water Management District Board reviewed the Water Allocation Program EIR under the California Environmental Quality Act (CEQA) with particular attention to the environmental effects and mitigation measures, and approved findings stating the rationale regarding mitigating each significant environmental effect of that program.
4. In approving the Water Allocation Program, the Board adopted the least environmentally damaging water supply option (Option V) and selected the mitigation measures described in Section XVII of the Findings, beginning at Finding #293. That Supply Option was determined to balance social, economic, housing interests, and the needs of the citizens of the Water Management District.
5. The District implemented a Five-Year Mitigation Plan for the Water Allocation Program as described in the Findings, beginning at Finding #293. This plan includes activities summarized as follows:

Fisheries - the District is required to continue existing programs, capture and transport emigrating smolts in Spring, prevent stranding of fall/winter juvenile migrants, rescue

juveniles downstream of Robles del Rio in summer, and modify spillway and transport smolts around Los Padres Dam;

Riparian Vegetation and Wildlife, and Aesthetics - the District is required to continue existing programs, conservation and water distribution management, prepare and oversee Riparian Corridor Management Plan, implement Riparian Corridor Management Program, and expand soil moisture and vegetative stress monitoring;

Lagoon Vegetation and Wildlife - the District is required to continue existing programs, assist with lagoon enhancement plan investigations, expand long-term lagoon monitoring program, and identify feasible alternatives to maintain adequate lagoon volume.

6. CEQA requires the implementation of a monitoring program to ensure compliance with mitigation measures required by the Water Allocation Program.

7. Program costs for required mitigations under the five year plan include existing costs, repayment of irrigation and interim relief prior year program expenses, plus additional capital costs for new programs approximating \$442,700, and annual costs approximating \$638,100 per year. These costs include additional staff caused by the required mitigation program as detailed in the Findings.

8. District Ordinance No. 36, adopted by the Board on August 8, 1988 established a user fee on the Cal-Am water bill of 0.875 percent to fund an Interim Relief Program to reduce adverse environmental effects of continued water production along the Carmel River. The Interim Relief Program will be subsumed into the mitigation program. Collection of the Interim Relief Program user fee will cease on the effective date of this ordinance; those funds are subsumed into the fees authorized for the five year plan.

9. Ordinance No. 5, adopted by the Board on April 8, 1981 established a surcharge on water connection fees of 1.85 percent. This surcharge partially funds irrigation for four lower California-American Water Company wells in Carmel Valley. Irrigation activities to mitigate the effects of pumping from these wells is included in the five year mitigation program. Collection of this surcharge will cease on the effective date of Ordinance No. 55 as those revenues are subsumed into the fees authorized for the five year plan.

10. User fees to fund mandatory water rationing were established by Ordinance Nos. 49, 51, and 54. Presently that fee is 6.0 percent of the Cal-Am water bill. Board action ended Phase III water rationing on May 1, 1991. Phase I water conservation activities and phase-out of the rationing office shall permit a reduction of the Water Rationing user fee. On the effective date of this ordinance, the 6.0 percent water rationing user fee will be re-labeled and decreased to a water conservation user fee of 2.11 percent of the Cal-Am water bill.

11. The Water Management District is required to implement the mitigation measures under the five year plan to ease environmental impacts caused by water production. These programs provide direct and tangible benefits to water consumers, avoid the specter of water rights litigation, and effect the required programs of the Water Allocation Program. This Ordinance shall authorize the collection of a user fee to fund these costs in the aggregate amount of 6.824 percent of the Cal-Am water bill, replacing prior fees which amounted to 8.125 percent of that bill. A similar charge shall be made to other district water distribution systems of fifty (50) connections or more to implement a surcharge on each water distribution system bill in a manner to distribute the charge equitably among water users based upon quantity of water use.

12. Collection of this fee shall begin 30 days following adoption of this ordinance.

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

SECTION ONE: PURPOSE

This ordinance shall implement a user fee to fund mandated District water supply activities, including the five year mitigation program and the water conservation/rationing program caused by the water supply emergency. This ordinance is required to implement the mandatory requirements of the Water Allocation Program EIR adopted by Resolution 90-22 and Ordinance No. 52, and to implement Phase I conservation measures under Ordinance No. 54.

SECTION TWO: CHARGE IMPLEMENTATION

This Ordinance shall authorize immediate collection of a user fee in the aggregate amount of 6.824 percent of the Cal-Am water bill, replacing prior fees which amounted to 8.125 percent of that bill. The General Manager shall cause a similar charge to be made to consumers of other district water distribution systems of fifty (50) connections or more in a manner to distribute the charge equitably among water users based upon quantity of water use.

SECTION THREE: 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 this ordinance.

SECTION FOUR: EFFECTIVE DATE AND SUNSET DATE

This ordinance shall take effect 30 days following its adoption. Upon the implementation of fees imposed by this ordinance, the General Manager shall cease imposition of fees under Ordinances No. 5 and 36.

SECTION FIVE: 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.

SECTION SIX: 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 SEVEN: 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 Franco the foregoing ordinance is duly passed this 20th day of May, 1991, by the following votes:

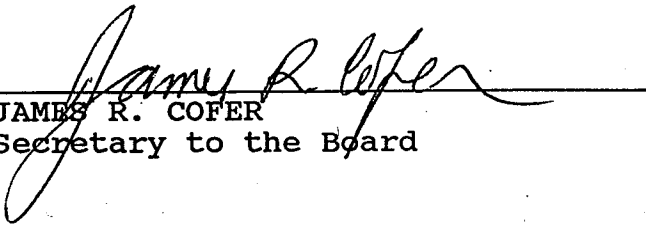
AYES: Directors Franco, Heuer, Davis, Hekhuis, Hughes, Long,
and Strasser Kauffman

NAYS: None

ABSENT: None

I, James R. Cofer, 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 passed on the 20th day of May, 1991.

Witness my hand and seal of the Board of Directors this
20th day of June, 1991.



JAMES R. COFER
Secretary to the Board

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