

Ordinance No. 59

**AN ORDINANCE OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING AND REPUBLISHING
THE PROVISIONS OF ORDINANCE NO. 52
WHICH CAUSE A TEMPORARY LIMIT ON THE
ISSUANCE OF WATER CONNECTION PERMITS**

FINDINGS

1. The Monterey Peninsula Water Management District enacted Ordinance No. 52 on December 13, 1990 to implement the water allocation program, to modify standards for the issuance of water connection permits, and to temporarily limit new uses of water.
2. Ordinance No. 52 was based upon evidence presented by the District's Water Allocation Program EIR. That measure confirmed the selection of Supply Option V and established an annual production limit from the Monterey Peninsula Water Resource System of 19,881 acre-feet, and an annual production limit of 16,744 acre-feet upon the Cal-Am water system.
3. The Water Allocation Program EIR substantially altered past assumptions regarding the quantity of water available from the Monterey Peninsula Water Resource System. Annual non-rationed Cal-Am production calculated as of the end of 1990 exceeded available water supplies by 230 acre feet. This situation shall remain until new water supplies are developed.
4. Ordinance No. 52 enacted temporary measures to ensure that consumption of potable water shall not exceed existing water supplies. Ordinance No. 52 was a necessary interim measure due to over-dedication of the existing water supply.
5. The reasons and need for Ordinance No. 52 have not yet changed. The present water supply emergency is intensified because of past deficit spending of water supplies, and the past allocation of "paper water." District water systems have mined area groundwater basins with significant adverse impact upon both human and environmental habitats. Although water rationing has temporarily decreased demand, normal unrationed demand exceeds the supply of water which is available for use.

6. Due to the present danger posed by limited water supplies during the continuing drought, and due to the limited nature of the District's water supply, limits on new and expanded uses of water continue to be required. This water shortage constitutes a water supply emergency which is a present and extraordinary threat to the health and safety of the citizens of the Monterey Peninsula. Without a limitation on growing water demand, and without an increase in the available supply, each additional water connection and each expansion of use from existing connections in the Monterey Peninsula Water Resource System intensifies the significant impacts upon both human and environmental habitats. Increased demand on existing water supplies further endangers citizens of the Monterey Peninsula, and intensifies detrimental effects of any drought or other water shortage emergency.
7. The water supply emergency which has previously been declared under Section 332 of the District Law continues unabated.
8. This measure shall modify and amend the terms of Ordinance No. 52, but in all other respects shall ratify and republish that Ordinance with minor modifications. This ordinance is required to meet the health and safety requirements of the communities served by the District.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: Statement of Purpose.

This measure shall modify and amend the terms of Ordinance No. 52, but in all other respects shall ratify and republish that Ordinance.

Section Two: Administrative Processes Under Ordinance No. 52.

The following administrative process shall be implemented with respect to water permit applications under Ordinance No. 52.

1. For each application for a water permit pursuant to Ordinance No. 52, District staff shall inquire from the City or County in which the project is located as to whether or not that jurisdiction supports the grant, or denial of the application.

2. For each application for a water permit pursuant to Ordinance No. 52 which is approved, District staff keep a record of the expected water demand from that project to enable that water use to be debited from the future water allocation of the City or County in which the project is located.

Section Three: Amendment of Ordinance No. 52.

The following amendments shall be made to Ordinance No. 52 by the addition of the text set forth in this section.

1. Pursuant to Section Three C, on site water savings need not always be required as a condition of approval for projects which meet the Public Health, Safety or Welfare exemption:

In review and consideration of any variance for new or intensified water use for projects which benefit the greater community good under the Public Health, Safety or Welfare provisions of Section Three C of Ordinance No. 52, approval of the water permit need not always require on-site water savings as a condition. In its exercise of discretion on the variance application, the Board of Directors shall weigh the benefit a project would confer upon public health, safety or welfare of the Monterey Peninsula against the water use burden that the project shall place upon the Monterey Peninsula Water Resource System and shall find that the proposed project meets an overriding community need. Thereafter, the Board may choose to grant approval, deny approval, or place conditions upon the quantity or nature of water use on that site.

2. Pursuant to Section Three C, the requirement that projects which meet the Public Health, Safety or Welfare exemption shall be permanently and exclusively dedicated to community non-profit uses shall be deleted.

3. For any residential permit allowed pursuant to Ordinance No. 52, the ratio which limits the amount of conserved water which may be rededicated to new use shall be changed from 2:1 to 1.5:1

Where on site water savings are required as a condition of approval for any residential permit, the provisions of Ordinance No. 52 which limit the ratio of water saved which may be dedicated to new use shall be changed from 2:1 to 1.5:1; that is, the former rule stated:

"No more than one-half of the new water supply, or no more than one-half of the reduction in prior demand on that site may be rededicated to new water use."

This provision shall now be amended to state:

"No more than two-thirds of the new water supply, or no more than two-thirds of the reduction in prior demand on that site may be rededicated to new water use."

4. The Board of Directors should be allowed, but not required, to weigh the general benefit of a project against its water use burden in the decision to grant or deny variance applications. A change in the verb (from "shall" to "may") as shown in second paragraph of Section Three D of Ordinance 52, is shown:

Section Three: Limitation on Select New Water Uses

D. Variance for Applications

In its exercise of discretion on the variance application, the Board of Directors ~~may~~ shall weigh the general benefit a project would confer upon the Monterey Peninsula against the water use burden that the project could place upon the Monterey Peninsula Water Resource System in the event the new water supply were not sufficient to meet all demand caused by the new development, or in the event the on-site water use reduction was not permanently achieved.

5. Ordinance 52 requires an applicant for a variance to show that water conservation measures are in addition to any program or standard otherwise pursued by the District. To delete this requirement, the words in the last sentence of the second paragraph should be deleted from Section Three D of Ordinance 52 as shown:

Section Three: Limitation on Select New Water Uses

D. Variance for Applications

Applications in this category shall only be approved where the applicant can prove by clear and convincing evidence that the increase in new water supply (or reduction in past use at that site) has been caused by that applicant. ~~and is in addition to any program or standard otherwise pursued by the District.~~

Section Four: Ratification of Ordinance No. 52

Except as amended by the preceding provisions of this ordinance, Ordinance No. 52 is ratified, re-enacted, and republished upon the effective date of this ordinance.

Section Five: Effective Date

This ordinance shall be given effect at 12:01 a.m., January 1, 1992.

Section Six: Review and Sunset Provision for this Ordinance

The standards enacted by this ordinance and by Ordinance No. 52 to limit the issuance of water connection permits shall be reviewed at the time any new supplies of water have been developed to the extent that that resource has been fully plumbed and integrated into the delivery system to augment the available supply from the Monterey Peninsula Water Resource System. Until new supplies of water are developed as stated by this section, neither this ordinance nor Ordinance No. 52 shall have a sunset provision.

Section Seven: Publication and Application

The provisions of this ordinance shall not be published in the permanent Rules and Regulations of the Monterey Peninsula Water Management District, but shall be separately distributed together with those Rules. This Ordinance shall be read in conjunction with and compliment those provisions of Ordinance No. 52 and the District's Rules and Regulations, provided, however that the provisions of this measure shall take precedence and supersede any contradictory provision of those rules.

Section Eight: 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 Ordinance No. 52 or 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 Strasser Kauffman, and second by Director Hughes, the foregoing ordinance is adopted upon second reading this 16th day of December, 1991, by the following vote:

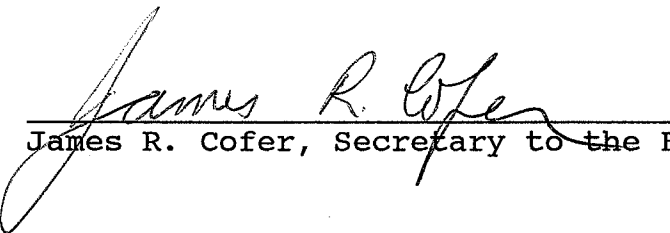
AYES: Directors Strasser Kauffman, Hughes, Hekhuis, Heuér, Farina, and Long

NAYS: None

ABSENT: Director Franco

I, James R. Cofer, 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 16th day of December, 1991.

Witness my hand and seal of the Board of Directors this 17th day of December, 1991.


James R. Cofer, Secretary to the Board

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