

ORDINANCE NO. 77

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT ESTABLISHING A PROCESS FOR ISSUING CONDITIONAL WATER PERMITS

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. Recent decisions of the State Water Resources Control Board substantially alter assumptions regarding the quantity of water legally available for use on the Monterey Peninsula from the Carmel Valley. These decisions indicate, however, the State Water Resources Control Board did not intend an immediate change to allocation assumptions made by the District.
3. Large projects, governmental project and projects involving complex underwriting have experienced difficulty under these circumstances, however, and need additional assurance that water permits will be available.
4. Insofar as municipal water allocations have not been modified by the State Water Resources Control Board, this ordinance shall enable the District to continue granting new water use permits in accord with calculations consistent with the District's Water Allocation Program EIR.

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title.**

This ordinance shall be known as the Conditional Water Permit Ordinance of the Monterey Peninsula Water Management District.

Section Two: Statement of Purpose.

The Monterey Peninsula Water Management District enacts this ordinance as legal authority to establish the standards for the issuance of Conditional Water Permits. In certain situations, large commercial projects, government-sponsored projects, and difficult to finance projects may be jeopardized due to the developer's inability to obtain a water permit before final approvals are received. The Conditional Water Permit allowed by this ordinance provides a means to debit an allocation prior to final project approval, thereby providing some assurance to all parties involved that a project will have water available when final approvals are received. This ordinance shall modify the existing Rules and Regulations of the District.

Section Three: Water Distribution Systems Affected.

This ordinance shall apply to each Conditional Water Permit application for which the property is or will be served by California-American Water Company or any other Water Distribution System within the Monterey Peninsula Water Resources System subject to the District's Allocation Program Environmental Impact Report.

Section Four: Definitions.

A. Unless the context specifically indicates otherwise, the following words or phrases shall be given the definitions set forth below for the purpose of this ordinance:

"Conditional Water Permit" - shall be a document with specific stipulations which must be met before a final water permit is signed and issued. Conditional water permits are permits which do not fully comply with the prerequisites to issue a water permit under District Rule 23. Conditional water permits shall be designated with a "C-" followed by a three-digit number.

"Large Project" - shall be a commercial project with a projected water demand of over one acre-foot annually.

"Government Project" - shall be a project owned and operated, or financed by a governmental agency.

"Complex Financial Underwriting" - shall be determined at the discretion of the Board of Directors.

B. The words and phrases defined above in this Section shall further be set forth as defined terms within Rule 11 of the District's Rules and Regulations.

Section Five: Amendment of Rule 23-D, "Conditions" to "Conditions and Conditional Water Permits."

A. The following additions (bold print) shall be made to Rule 23-D:

The Board, or the General Manager on those applications acted upon by the General Manager, may place conditions upon the grant of any expansion/extension permit. For any permit which would allow the use of potable water for greenbelt irrigation, the following condition shall be imposed:

- 1) The holder of this permit, or the holder's successor in interest, shall not use water derived from this connection to irrigate any greenbelt the Monterey Peninsula Water Management District has declared by resolution that sub-potable water as defined by the District's Rules and Regulations is reasonably available for such use.
- (2) **A category of water permits known as Conditional Water Permits shall be available to a limited group of water permit applicants under restricted circumstances and only with the jurisdiction's endorsement. A Conditional Water Permit creates a record that specifically quantifies the increment of water assigned for use at the location designated by the jurisdiction and debits the jurisdiction's water allocation. Conditional Water Permits are available to those projects that are unable to meet all of the criteria of Rule 23-A-1 (a) and meet the requirements of Rule 23-D-2.**

A. The following categories of projects may obtain a Conditional Water Permit:

- (1) **Large Projects - Commercial projects with a projected water demand of over one acre-foot annually.**
- (2) **Government Projects - Projects owned and operated, or financed by a governmental agency.**
- (3) **Projects with Complex Financial Underwriting - Determined at the discretion of the Board of Directors.**

B. The Conditional Water Permit may be issued when the following criteria have been met:

- (1) **There is no water supply emergency;**
- (2) **There is sufficient water supply in the jurisdiction's allocation;**
- (3) **The governing body of a jurisdiction submits a written request that a Conditional Water Permit be issued to a project;**

- (4) A completed Water Release Form for the project is submitted which includes the authorizing signature of the jurisdiction to debit its water allocation;
 - (5) Payment of all connection charges and processing fees have been received by the District.
- C. A Conditional Water Permit must be finally approved by the General Manager, following review of the proposed conditions by the District's legal counsel. The notarized signature of the project applicant is required before the General Manager's signature is obtained.
 - D. A Conditional Water Permit shall be numbered with the next sequential alpha and numeric number beginning with C-001, C-002, etcetera. A final water permit bearing the final water permit number referenced in the conditional water permit shall be maintained, unsigned in the District's file. An amount of water approved for use by the jurisdiction for the project will be debited from the jurisdiction's water allocation at the time the conditional water permit is issued.
 - E. A Conditional Water Permit does not allow the setting of any water meter or the start of any new or expanded water use until the conditions of the permit have been met.
 - F. A condition shall be included in all Conditional Permits which requires the adjustment of the connection charge to accurately reflect the cost-per-acre-foot at the time the final water permit is issued. Any difference in the connection charge between the time the Conditional Water Permit is issued and the final Water Permit is issued must be paid in full.
 - G. Each Conditional Water Permit is time limited. The Conditional Water Permit shall expire on December 31st of the year following issuance.
 - H. A written request for extension of the Conditional Water Permit may be requested and shall require Board authorization for extension. Requests for extension must be received no later than forty-five (45) days prior to expiration and must include an explanation for the request and the jurisdiction's agreement that the Board should grant an extension.

Section Six: Effective Date.

This ordinance shall be given effect at 12:01 a.m., September 20, 1995.

Section Seven: Review and Sunset Provision for this Ordinance.

The standards enacted by this ordinance shall be reviewed at the time any new supplies of water have been developed which augment the available supply from the Monterey Peninsula Water Resource System. Until new supplies of water are developed, this ordinance shall have no sunset provision.

Section Eight: Publication and Application.

The provisions of this ordinance shall be published in the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Nine: 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 Pendergrass, and second by Director Burkleo, the foregoing ordinance is adopted upon second reading this 21st day of August, 1995, by the following vote:

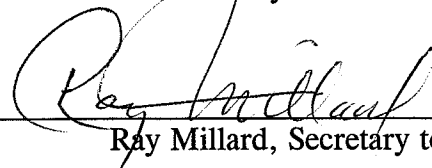
AYES: Directors Farina, Burkleo, Heuer, Hughes, Karas and Pendergrass

NAYS: Director Haddad

ABSENT: None

I, Ray Millard, 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 21st day of August, 1995.

Witness my hand and seal of the Board of Directors this 30th day of October, 1995.



Ray Millard, Secretary to the Board