



FINAL

RESOLUTION 2022-06

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
IN SUPPORT OF ACTIVATION OF LATENT DISTRICT POWERS**

WHEREAS, The Monterey Peninsula Water Management District (“District”) is organized and exists under the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, and published at Water Code Appendix, Section 118-1, et seq.) (“District Law”).

WHEREAS, Pursuant to Section 325 of the District Law, and except as otherwise limited by the District Law, the District has the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the District, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses and purposes.

WHEREAS, Pursuant to Section 328 of the District Law, the District has the power, among other things, (a) to acquire public or private water systems necessary or proper to carry out the purposes of the District Law; (b) to store water in surface or underground reservoirs within or outside of the District for the common benefit of the District; (c) To conserve and reclaim water for present and future use within the District; (d) To appropriate and acquire water and water rights, and import water into the District and to conserve and utilize, within or outside of the District, water for any purpose useful to the District.

WHEREAS, Section 326 of the District Law authorizes the District to fix, revise, and collect rates and charges for the services, facilities, or water furnished by it, and authorizes the District to collect its rates and charges via the tax roll or other billing methods. Section 308 of the District Law authorizes the District, by resolution or ordinance, to fix and collect rates and charges for the providing of any service it is authorized to provide.

WHEREAS, The District engages in a variety of activities that supply water to properties within the District via a distribution system owned by California American Water (CAW), including water supplied by the Aquifer Storage and Recovery project and the Pure Water Monterey project.

WHEREAS, Since 1994 the District has provided highly treated water for retail sale to properties within the Del Monte Forest.

WHEREAS, On November 6, 2018, voters within the Water Management District passed initiative Measure J by 56% (23,757 voted yes) to 44% (18,810 voted no). Measure J directed that the following Rule 19.8 be added to the District Rules and Regulations, Regulation I, General Provisions:

Rule 19.8. Policy of Pursuing Public Ownership of Monterey Peninsula Water Systems

- A. It shall be the policy of the District, if and when feasible, to secure and maintain public ownership of all water production, storage and delivery system assets and infrastructure providing services within its territory.
- B. The District shall acquire through negotiation, or through eminent domain if necessary, all assets of California American Water, or any successor in interest to California American Water, for the benefit of the District as a whole.
- C. The General Manager shall, within nine (9) months of the effective date of this Rule 19.8, complete and submit to the Board of Directors a written plan as to the means to adopt and implement the policy set forth in paragraph A, above. The plan shall address acquisition, ownership, and management of all water facilities and services within and outside the District, including water purchase agreements as appropriate. The plan may differentiate treatment of non-potable water services.

NOW, THEREFORE, BE IT RESOLVED, as follows:

The District commits to:

(A) Engage in good faith dispute resolution efforts with local taxing agencies that are projected, as of the date of this Resolution, to lose more than \$5,000 in annual property tax revenue due to Cal-Am assets becoming subject to public ownership and thus exempt from property taxes. The District shall use its best efforts to enter into legally permissible agreements which may include provisions to reduce the net impact of lost tax revenue over a five to seven-year transition period, or longer if warranted by unique facts, for each affected Local Taxing Agency.

(B) If the acquisition of the Monterey Water System is approved in Superior Court, act as an intervenor in any California Public Utilities Commission (CPUC) proceeding related to any CAW Monterey County satellite water system or wastewater system. In such a proceeding, the District will strongly encourage the CPUC to continue the rate structure presently in place for the Chualar division and to argue for the inclusion of such water and wastewater systems to be treated in the most economical manner for ratepayers, including annexing into the CAW Northern Division and/or seeking operating subsidies from CAW divisions statewide.

(C) Finalize an agreement to establish an initial framework for future discussions with MCWD and the affected jurisdictions on how to address long-term water service needs in the areas where the District's boundaries overlap with MCWD's boundaries or future study areas, contingent on the acquisition of the Monterey Water System as approved in Superior Court.

(D) Secure a viable permanent water supply, without new¹ commitments of Salinas Valley water, and to advance a desalination or other project when determined to be necessary for the water supply needs of the Peninsula.

In furtherance of the commitments cited above, the District will discuss and negotiate outcomes satisfactory to LAFCO.

This Resolution in Support of Activation of Latent District Powers is hereby adopted and approved by the Board of Directors of the Monterey Peninsula Water Management District.

The District requests the Local Agency Formation Commission (LAFCO) of Monterey County act pursuant to Sections 56824.10 *et seq.* of the Cortese Knox Hertzberg Act and pursuant to California Government Code section 56700(a) to authorize the District to activate its latent powers to provide water production and distribution services for retail customers.

The District makes the proposal to the Local Agency Formation Commission pursuant to California Government Code section 56700(a) for the purpose of complying with the directive of Measure J, as cited above.

The Board designates its General Manager, David J. Stoldt, as chief petitioner. Chief petitioner's address is 5 Harris Court, Building G, Monterey, CA 93940.

The Board finds that its proposal is consistent with the sphere of influence of all affected jurisdictions, including water providers Marina Coast Water District and the City of Seaside. Further, it is consistent with the sphere of influence of the cities of Carmel, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and Seaside and the County of Monterey.

PASSED AND ADOPTED on this 24th day of February, 2022 on a motion by Director Riley and second by Director Edwards, by the following vote, to wit:

AYES: Director Edwards, Riley, Paull, Anderson, Adams and Roberson
NAYS: None
ABSENT: Director Malek

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a resolution duly adopted on the 24th day of February 2022.

Witness my hand and seal of the Board of Directors this 24th day of February 2022.



David J. Stoldt,
Secretary to the Board

¹ Existing contractual commitments of source waters remain intact.