

Proposition 218

1996

California Constitution Article XIII C & D

David C. Laredo
General Counsel, MPWMD

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Proposition 218

Titled the "Right to Vote on Taxes Act."

Approved on November 5, 1996

Added Articles XIII C and D to Constitution

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Proposition 218

Distinguishes between 3 financing tools:
Taxes,
Fees, and
Assessments

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Proposition 218

Tax

A monetary exaction imposed for revenue purposes, rather than in return for a specific benefit conferred or privilege granted.

A general revenue raising device

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Assessment

A levy or charge on real property for a specific benefit conferred on that property.

An Assessment is imposed only on property.

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Fee

To reimburse for costs related to service

Limited to expenses

Imposed for commodity use, or to mitigate impacts

May be "imposed by an agency upon a parcel or upon a person as an incident of property ownership, including user charges for a property-related service." (Art. XIII D, § 2 (e)).

A fee not a tax or assessment (*Crawford v. Herringer*).

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Art. XIII D, § 6 (b)

Property-related fee not a tax

Revenue cannot exceed funds for property-related service

Cannot exceed proportional cost

Cannot be imposed unless service actually used by or immediately available

Cannot be imposed for general governmental service

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Art. XIII D, § 6 (b)

Fees may include:

Direct & indirect expenses to operate

Purchased water

O&M Expenses

Repair and replacement

Capital improvements

Regulatory compliance,

To build cash reserves

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Art. XIII D, § 6 (b)

Fees may:

Pricing water as a tool to manage resources

Preservation of scarce resources is recognized as a legitimate cost of service and may be a factor to determine and apportion fees

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MPWMD may impose rates and charges:

For services, facilities or water,

For costs supporting provision of water by others

For management of water resources

District Law §326 - Statutes of 1977, Chapter 527.

Health & Safety Code §5471

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Process

Record must estimate costs & basis to apportion costs

The reason for the fee

It must identify parcels on which a fee is imposed

Amount of fee for each parcel must be calculated

Written notice by mail of the fee to record owner of each identified parcel

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Hearing

Notice of date, time, and location of a public hearing

Consider all written protests

Cannot impose fee if a majority protest is made

“Silence equals consent”

One protest per parcel

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Art. XIII D, § 6 (b)

Fees for “sewer, water, and refuse collection services” are subject to the notice, hearing and majority protest procedures. Water services are not included in the voter approval requirements set by Article XIID, section 6 (c).

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The cover features the Monterey Peninsula Water Management District logo in the top left, which includes a stylized water drop. The background is a collage of black and white images: a person working in a field, a large industrial structure, and a close-up of a water tap. The title and date are centered in a white box.

**MONTEREY PENINSULA
WATER
MANAGEMENT DISTRICT**

Water Supply for the Monterey Peninsula

April 2012

The slide features the Monterey Peninsula Water Management District logo in the top left. The background is a black and white photograph of a rocky stream. The title 'Community Criteria' is prominently displayed in the upper right. The main text and a bulleted list are centered in a white box.

**MONTEREY PENINSULA
WATER
MANAGEMENT DISTRICT**

Community Criteria

The Monterey Peninsula Community wants Water Supply Projects that meet these criteria:

- Storage or Drought Resistant
- Reliable
- Meets Peak Demand
- Technically Proven
- Timely Implementation by 12/31/16

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What's the Plan?

What Fits the Criteria...	What Doesn't Appear to Fit...
Desalination	Table 13 Water Rights
Aquifer Storage and Recovery	Salinas River Water Rights
Groundwater Replenishment	Dams
	Over-Reliance on ASR
	Some Desal Proposals
	Over-Reliance on Conservation

Component 3 - GWR

- 3,300 AF
- Complete by 2016
- Public Component
- 3-Party MOU (MRWPCA, MPWMD, Cal-Am)
 - Water Purchase Agt
 - Storage & Recovery Agt
 - Wholesale Water Sales Agt
 - District 50% pay-as-you-go funding match
 - District to provide long-term financing



Component 2 - ASR



- Double ASR Capacity
- Complete by 2016
- Public and Private Components
- Work jointly with Cal-Am
- District will continue to develop future ASR opportunities

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Component 1 - Desal

- 6,500+ AF
- Completion date depends on Key Issues:
 - Requirement and timeline for a new CEQA process or not
 - Additional technical assessment and scoping of project alternatives
 - Ease in permitting
 - Water rights
 - Cost of financing and operations
 - Litigation risk
- Is it a Public Path or a Private Path?

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Key Understanding



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Capital Improvement Plan

Draft CIP

	FY2012-13	FY2013-14
Water Supply: Aquifer Storage and Recovery Phase 1 Completion	\$885,165	\$435,314
Water Supply: Groundwater Replenishment	1,036,550	1,469,200
Water Supply: Studies for Combined Desal, GWR, and ASR Operations	150,000	250,000
Water Supply: ASR Expansion Study – Part 1(Scoping locations)	150,000	
Water Supply: ASR Expansion Study – Part 2 (Easements & Test Wells)		500,000
Water Supply: Feasibility studies – Other Projects	200,000	200,000
Water Supply: Repayment of Advances for ASR	427,056	427,056
Mitigation Program: Capital	109,873	50,000
TOTAL CIP	\$2,958,644	\$3,331,570

Plus, personnel, services, & supplies for water supply was \$1.6 million in FY 2011-12

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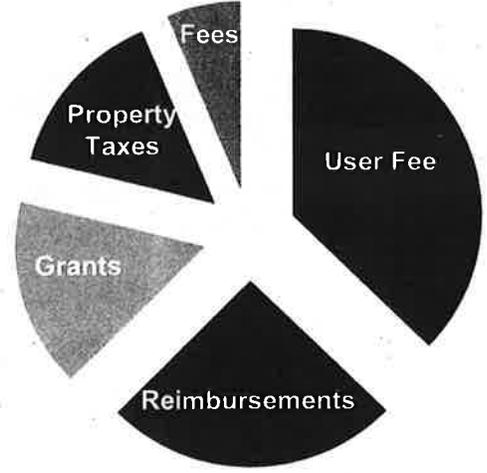
Old User Fee

- User Fee collected since 1983
- Related to the delivery of water
- CPUC has interrupted collection mechanism (Cal-Am bill)
- Was budgeted at \$3.7 million last 3 years
- Seek **new collection mechanism**



MPWMD Finances

Revenue Sources





Water Supply & Budget

- Water Supply Projects are additive to existing budget
- Reduce District expenditures for other activities, where possible w/o disrupting legal mandates
- Seek to have Cal-Am directly pay a greater share of mitigation costs (at least \$1.6 million/year)
- Doing so allows 100% of new revenue source to be used on new water supply costs

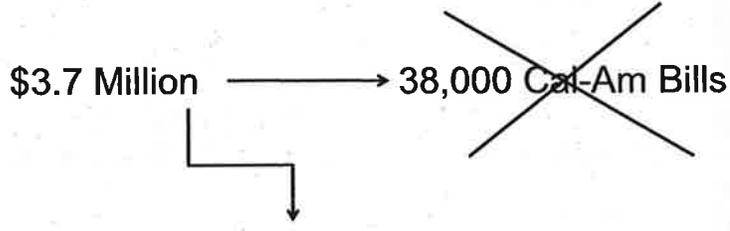


Summary Use of New Fees

	Budgeted Amount	Available From New Fees
Direct Capital per CIP	\$2,959,000	\$2,488,000
Staff, Supplies, Services - Water	<u>1,618,000</u>	<u>1,212,000</u>
Total	4,577,000	3,700,000



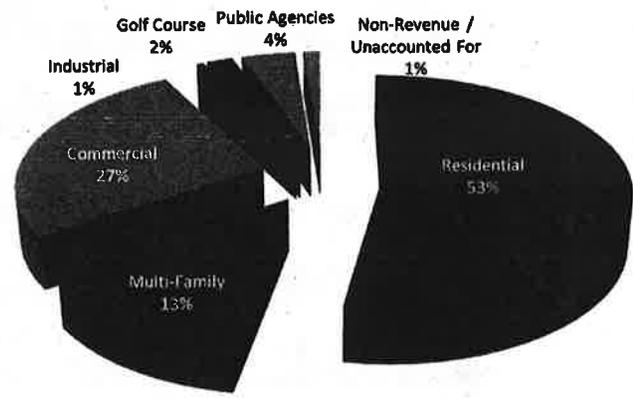
Allocation Process



- e.g.
- | | |
|------------------------|------------------|
| Single-Family (small) | Commercial |
| Single Family (medium) | Industrial |
| Single Family (large) | Golf Course |
| Multi-Family | Public Agencies |
| | Other Categories |



Water Demand in Region



Alternative Methods

<u>Alternatives</u>	<u>Annual User Fee (Low Estimate)</u>	<u>Annual User Fee (High Estimate)</u>
Volumetric Basis	\$45	\$49
Meter Equivalent Basis	55	65
Land Use Basis	56	67
Hybrid Basis	52	55

A Local Example

**Carmel Area Wastewater District
Proposed Sewer Rate Increases for 2010-2012**

<u>User Categories</u>	<u>2010-11 Proposed Annual Rates</u>	<u>% Change</u>	<u>2011-12 Proposed Annual Rates</u>	<u>% Change</u>
Voluntary Office (each location)	\$ 203.50	4.84%	\$ 214.50	4.40%
Vol. Hospital/Boarding (each location)	\$ 1,578.00	4.87%	\$ 1,750.00	4.42%
Bakery (each location)	\$ 1,123.00	4.88%	\$ 1,170.00	4.19%
Bar (each location)	\$ 588.00	4.88%	\$ 605.82	3.03%
Cemets/Photo (each location)	\$ 308.00	4.40%	\$ 318.92	3.55%
Church/Synagogue/Mission (each location)	\$ 313.00	5.15%	\$ 330.00	5.43%
Co-subsistent Hospital (per bed)	\$ 174.00	4.77%	\$ 182.20	4.71%
Dental Office (per dentist)	\$ 350.00	0.00%	\$ 350.00	0.00%
Gym/Health Spa (each location)	\$ 415.00	4.58%	\$ 431.12	3.88%
Hotel/Motel (per room)	\$ 188.00	4.85%	\$ 194.79	3.61%
Market (each location)	\$ 544.10	5.00%	\$ 571.32	5.00%
Medical Office (per physician)	\$ 190.00	4.88%	\$ 198.00	3.16%
Residential/Minimum vacant (each location)	\$ 370.50	4.72%	\$ 388.00	4.72%
Restaurants (per seat/month)	\$ 28.22	4.85%	\$ 29.54	5.03%
School (per population)	\$ 14.32	4.99%	\$ 14.90	4.05%
Service Station (per pump)	\$ 1,188.00	5.37%	\$ 1,260.94	5.88%



Annual Water Use Fee Collection Mechanism

- Need Stable and Secure Mechanism
- Used for Water Supply
- Will Allow Public Financing
- Attention to Cost and Rate of Collection

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Key Dates

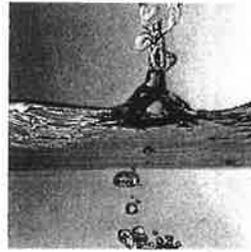
- April 16 - District Board accepts/adopts Rate Study
First reading of proposed Rate Ordinance
Board approves Prop 218 Hearing Notice
Board approves Prop 218 "Rules of the Road"
Board receives alternative collection method
Resolution drafts
- June 12 - Prop 218 protests calculated
Board holds Prop 218 Hearing
Second reading of proposed Rate Ordinance (adopt)
Approve Resolution for collection method
Approve CEQA waiver
Adopt annual budget

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Conclusion



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Bill Print and Mail Analysis

Cost Description	Option 1	Option 2			Option 3		
	Assessor's Office	DirectMail InfoSend	DirectMail InfoSend	DirectMail InfoSend	DirectMail MPWMD	DirectMail MPWMD	DirectMail MPWMD
Frequency of Bills	Annual	Monthly	Bi-Monthly	Semi-Annual	Monthly	Bi-Monthly	Semi-Annual
Processing Fee	\$ 18,500 ¹	\$ 5,167.80 ^{1A}	\$ 5,515.80 ^{1A}	\$ 6,377.10 ^{1A}	8,320.00 ⁷	8,320.00 ⁷	8,320.00 ⁷
Postage Fee	-	18,270.00 ⁶	18,270.00 ⁶	18,270.00 ⁶	18,270.00 ⁶	18,270.00 ⁶	18,270.00 ⁶
Data Preparation Costs	1,648.00 ²	412.00 ²	618.00 ²	824.00 ²	412.00 ²	618.00 ²	824.00 ²
Receipts Deposit (lockbox)	-	7,395.00 ¹²	7,395.00 ¹²	7,395.00 ¹²	7,395.00 ¹²	7,395.00 ¹²	7,395.00 ¹²
Accounting Staff Time	240.00 ³	640.00 ⁵	640.00 ⁵	640.00 ⁵	640.00 ⁵	640.00 ⁵	640.00 ⁵
Customer Service Staff Time	384.00 ⁸	2,880.00 ⁸	2,160.00 ⁸	1,440.00 ⁸	-	-	-
Equipment Lease (Inserter/Folder)	-	-	-	-	1,000.00 ⁹	1,000.00 ⁹	1,000.00 ⁹
Stationery Costs	-	-	-	-	5,220.00 ¹⁰	5,220.00 ¹⁰	5,220.00 ¹⁰
Printing Costs	-	-	-	-	1,044.00 ¹¹	1,044.00 ¹¹	1,044.00 ¹¹
Total Cost	\$ 20,772.00	\$ 34,764.80	\$ 34,598.80	\$ 34,946.10	\$ 42,301.00	\$ 42,507.00	\$ 42,713.00
Annual Cost	\$ 20,772.00	\$ 417,177.60	\$ 207,592.80	\$ 69,892.20	\$ 507,612.00	\$ 310,962.00	\$ 178,626.00
Annual Cost per Bill (43,500 bills)	0.48	9.59	4.77	1.61	11.67	7.15	4.11
Monthly Cost per Bill (43,500 bills)	0.04	0.80	0.40	0.13	0.97	0.60	0.34

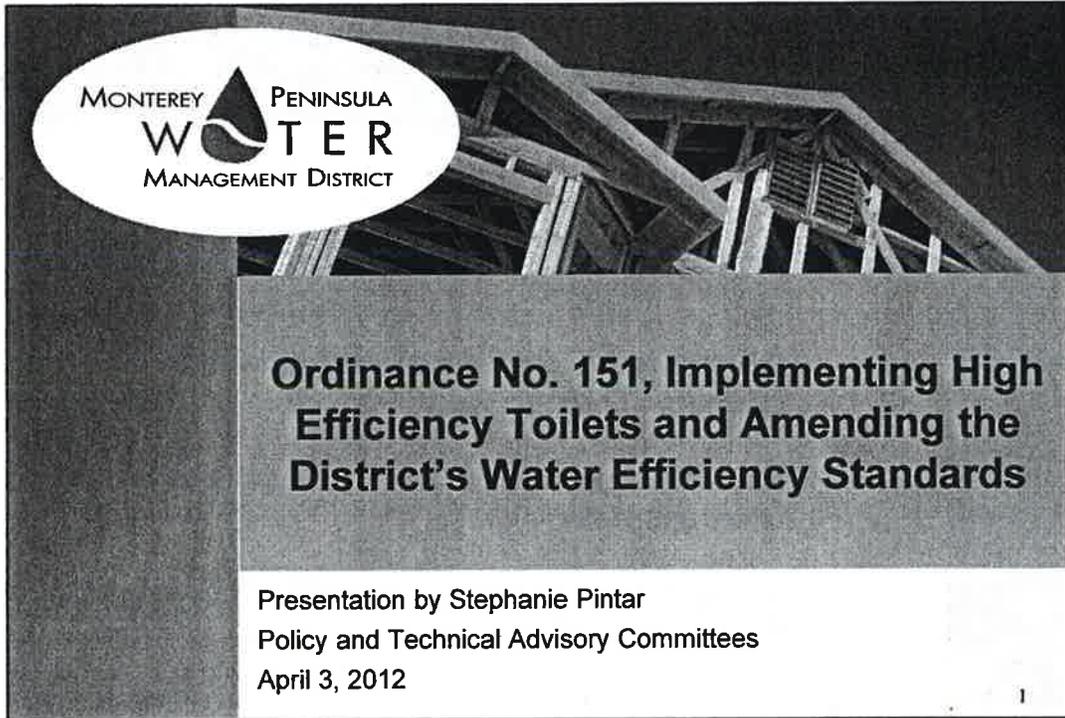
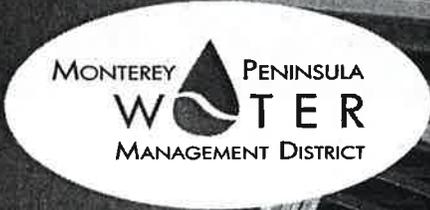
* Above assumptions include 43,500 bills per month plus 20% receiving late notice reminder bills

One-Time Costs:

A/R Module	-	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
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Notes:

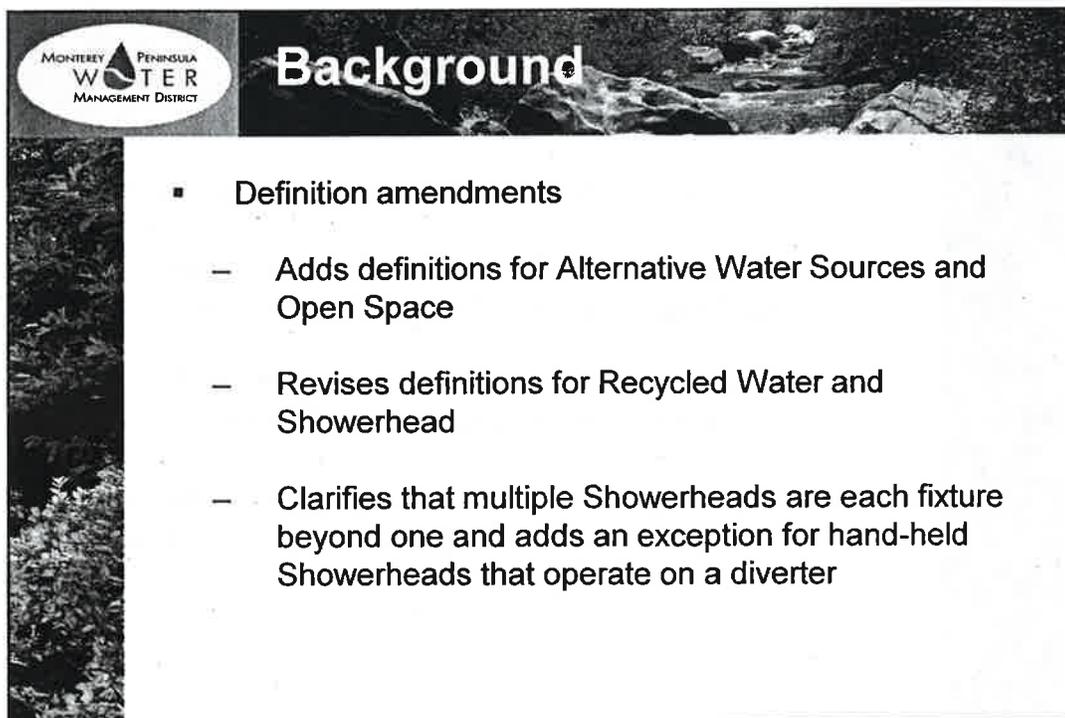
- 1 - County assesses 1/2% fee on collected revenues (3,700,000 x 1/2% = 18,500)
- 1A - Based on assumed rate of \$0.0945 for monthly, \$0.1015 for bi-monthly and \$0.1165 for semi-annual.
- 2 - IT Dataprocessing time 4 hours for monthly, 6 hours for bi-monthly, 8 hours for semi-annually and 2 days for annual data transfer
- 3 - Accounting time to import or enter data into accounting module (3 hrs @\$80/hr)
- 4 - IT Dataprocessing time of 4 hours is allocated for each data file submitted
- 5 - Accounting time to import or enter data into accounting module (8 hours @\$80/hr)
- 6 - Assumes current bulk postage pricing of \$0.35 per piece
- 7 - Assumes hiring of full-time person at fully loaded cost of \$48 per hour
- 8 - Customer service time is assumed at \$48 per hour (8 hours for annual, 60 hours for monthly, 45 hours for bi-monthly, 30 hours for semi-annual)
- 9 - Leasing costs of a high-volume inserter/folder machine with service agreement and 3-yr lease commitment
- 10 - Stationery costs are assumed at \$0.10 cents per piece (0.04 statement pre-printed forms, 0.03 pre-printed envelopes, 0.03 pre-printed return envelopes)
- 11 - Printing costs are assumed at \$0.02 (toner plus maintenance costs on existing equipment)
- 12 - Assumes utilizing lockbox service for a fee of \$0.17 per check deposit (\$0.30 rate minus \$0.13 credit from check deposit)



Ordinance No. 151, Implementing High Efficiency Toilets and Amending the District's Water Efficiency Standards

Presentation by Stephanie Pintar
Policy and Technical Advisory Committees
April 3, 2012

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Background

- Definition amendments
 - Adds definitions for Alternative Water Sources and Open Space
 - Revises definitions for Recycled Water and Showerhead
 - Clarifies that multiple Showerheads are each fixture beyond one and adds an exception for hand-held Showerheads that operate on a diverter



Background

- **Amendments to flush volume standards**
 - Replaces 1.6 gpf toilets with High Efficiency Toilets as District standard
 - Establishes a fixture unit value for Ultra High Efficiency Toilets (0.8 gpf)
 - Establishes an incentive for installation of UHET (0.5 fixture unit credit)
 - Replaces 1 gpf Urinals with High Efficiency Urinals (0.5 gpf) as District standard



Background

- **Amendment to Showerheads and faucet flow rates**
 - Updates Non-Residential standards to match plumbing code flow for private Lavatory sinks
 - Requires Showerheads to be designed and manufactured to flow at required flow rate
 - Encourages use of alternative water sources for Non-Residential toilet flushing and other indoor uses allowed by the Jurisdiction



Background

- Extends Non-Residential retrofit requirement by six (6) months
 - Currently, Non-Residential Users no previously required to retrofit must do so by December 31, 2012.
 - Ordinance No. 151 extends the requirement to July 1, 2013
 - Rebates will provide substantial financial assistance to meet this requirement prior to implementation date



Background

- Adds irrigated Open Space to Users required to have Landscape Water Audits and Landscape Water Budgets
 - Must adhere to budgets during Stages 2-4 of the Expanded Water Conservation and Standby Rationing Plan (Regulation XV)
 - Audits are provided at no charge by MPWMD and California American Water
- Clarifies that budgets for new Dedicated Irrigation Meters are based on Estimated Applied Water Use as determined by the landscape and irrigation plan



Schedule

- Reviewed by Water Demand Committee on March 28, 2012
- Policy and Technical Advisory Committees on April 3, 2012
- Division of Ratepayer Advocates
- California American Water
- Board first reading on April 16, 2012; second reading and adoption on May 21, 2012
- Effective date: July 1, 2012



For More Information

Staff reports, ordinances and presentation materials can be found on the District's website at:

www.mpwmd.dst.ca.us

PowerPoint presentations will be posted on the website the day after the meeting



Water Rationing Planning

March 22, 2012

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Overview

- Purpose of the Stakeholder meetings
 - Advance planning! Old plan needs revisiting.
 - Begin dialogue on rationing options
 - No rationing is expected in near term
 - Cal-Am is required by the Public Utilities Commission to have a rationing plan

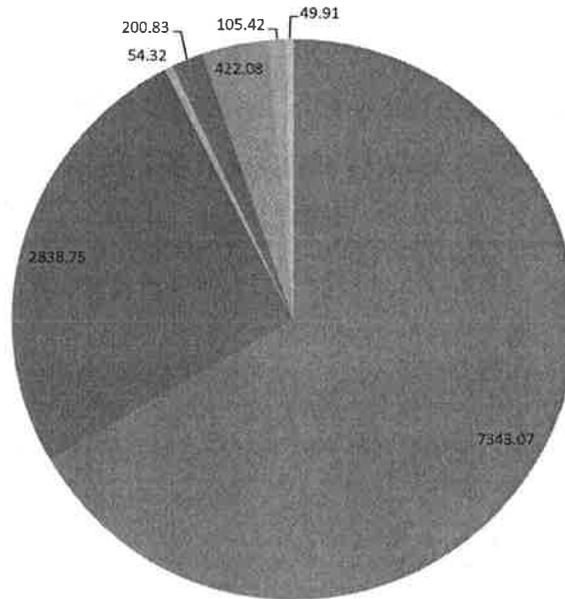


- Expanded Water Conservation and Standby Rationing Plan (CAW Rule 14.1.1), adopted in 1999
- Residential Users have priority (minimum of 35 gppd) after accounting for Unaccounted Water Use and District reserve
- Remainder to all other users



- Current plan uses Cal-Am allotments
- Cal-Am is moving away from allotments in 2013
 - Allotments have been problematic
 - May over or under estimate actual needs
 - Self reporting to Cal-Am is not always accurate
- Without allotment information, another method of rationing non-residential users is needed

Cal-Am Customers and Consumption in Acre-Feet, WY 2011



Residential Users: 67%
Commercial: 26%
Industrial: < 1%
Golf: < 2%
Public Authority: 4%
Other 1%
Non-Revenue Use: < 1%

- MPWMD and Cal-Am want a plan that will work for the community
- The plan must consider the following:
 - Residential and other priorities
 - Desire to maintain economic vitality of area
 - Implementation of best management practices or BMPs
- Next scheduled meeting on April 19th



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