



This meeting is not subject to Brown Act noticing requirements. The agenda is subject to change.

Water Demand Committee Members:
Alvin Edwards, Chair
George Riley
vacant

Alternate:
vacant

Staff Contact
Stephanie Locke
Sara Reyes

After staff reports have been distributed, if additional documents are produced by the District and provided to the Committee regarding any item on the agenda they will be made available on the District's website prior to the meeting. Documents distributed at the meeting will be made available upon request and posted to the District's website within five days following the meeting.

AGENDA
Water Demand Committee
Of the Monterey Peninsula Water Management District

Thursday, January 7, 3:00 pm, Virtual Meeting

Pursuant to Governor Newsom's Executive Orders N-29-20 and N-33-20, and to do all we can to help slow the spread of COVID-19 (coronavirus), meetings of the Monterey Peninsula Water Management District Board of Directors and committees will be conducted with virtual (electronic) participation only using WebEx.

Join the meeting at:

<https://mpwmd.webex.com/mpwmd/onstage/g.php?MTID=ec6abd349b3e161d769e8d85084712d52>

Or join at mpwmd.webex.com.

Event number: 126 129 9295

Event password: water

Participate by phone: 877-668-4493

For detailed instructions on connecting to the WebEx meeting see page 3 of this agenda.

Call to Order/Roll Call

Comments from Public - *The public may comment on any item within the District's jurisdiction. Please limit your comments to three minutes in length.*

Action Items -- *Public comment will be received.*

1. Consider Adoption of December 3, 2020 Committee Meeting Minutes
2. Consider Recommendation to Board on Draft Ordinance No. 187 – Establishing a Water Use Credit Process for Department of Defense Sites and Authorizing the General Manager to Extend Water Use Credits for One Year for Justifiable Cause

Suggest Items to be Placed on Future Agendas

Adjournment

Upon request, MPWMD will make a reasonable effort to provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. MPWMD will also make a reasonable effort to provide translation services upon request. Submit requests by noon on Wednesday, January 6, 2021, to sara@mpwmd.net or call 831- 658-5610.

See next page of agenda for instructions on connecting to WebEx meeting

Instructions for Connecting to the WebEx Meeting

Note: If you have not used WebEx previously, when you begin connecting to the meeting you may be asked to download the app. If you do not have a computer, you can participate by phone.

Begin: Within 10 minutes of the meeting start time, from your computer click on this link <https://mpwmd.webex.com/mpwmd/onstage/g.php?MTID=ec6abd349b3e161d769e8d85084712d52> or copy and paste the link into your browser or go to: mpwmd.webex.com.

Under “Join a Meeting” enter the event number **126 129 9295**, hit the enter key and when prompted enter the meeting password **conserve**, click “Next” and see the dropdown menu at the bottom of the screen “Use computer for audio” and select the method you will use to hear the meeting – see below.

1) Audio and video connection from computer with WebEx app – view participants/materials on your screen

Click on the “Use computer for audio” drop down list
Click “Join Meeting”
Once in the meeting, mute your microphone.
Turn your microphone on when it is your turn to speak.

2) View material on your computer screen and listen to audio on your phone

From the “Use computer for Audio” drop down list select “Call In”
Click on “Join Meeting” / You will see a toll-free telephone number, access code, and attendee ID # -- enter these numbers on your phone.
Mute the microphone on your computer.
Disable computer speakers using the Settings menu.

Join by phone only (no computer) dial 1-877-668-4493 and use the meeting number above.

Presenting Public Comment

Receipt of Public Comment – the Chair will ask for comments from the public on all items. Limit your comment to 3 minutes.

- (a) Computer Audio Connection: Select the “raised hand” icon. When you are called on to speak, please identify yourself.
- (b) Phone audio connection **with** computer to view meeting: Select the “raised hand” icon. When you are called on to speak, please identify yourself.
- (c) Phone audio connection only: Press *3. Wait for the clerk to unmute your phone and then identify yourself and provide your comment. Press *3 to end the call.

Submit Written Comments

If you are unable to participate via telephone or computer to present oral comments, you may also submit your comments by e-mailing them to comments@mpwmd.net with one of the following subject lines "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment) or "COMMENTS FROM THE PUBIC". Comments must be received by noon on Thursday, January 7, 2021. Comments submitted **by noon** will be provided to the committee members and compiled as part of the record of the meeting.

WATER DEMAND COMMITTEE

ITEM: ACTION ITEM

1. CONSIDER ADOPTION OF DECEMBER 3, 2020 COMMITTEE MEETING MINUTES

Meeting Date: January 7, 2021 **Budgeted:** N/A

From: David J. Stoldt, **Program/** N/A
 General Manager **Line Item No.:**

Prepared By: Arlene Tavani **Cost Estimate:** N/A

General Counsel Review: N/A

Committee Recommendation: N/A

CEQA Compliance: This action does not constitute a project as defined by the California Environmental Quality Act Guidelines section 15301

SUMMARY: Attached as **Exhibit 1-A**, are draft minutes of the December 3, 2020, committee meeting.

RECOMMENDATION: The Water Demand Committee should review the minutes and approve them by motion.

EXHIBIT

1-A Draft minutes of December 3, 2020 committee meeting



EXHIBIT 1-A

**DRAFT MINUTES
Water Demand Committee of the
Monterey Peninsula Water Management District
December 3, 2020**

Call to Order

The virtual meeting was called to order at 3 pm via WebEx.

Committee members present: Alvin Edwards, Chair
George Riley

Committee members absent: Gary Hoffmann

Staff members present: David Stoldt, General Manager
Stephanie Locke, Water Demand Division Manager
Arlene Tavani, Executive Assistant

District Counsel present: David Laredo

Comments from the Public: No comments were directed to the committee.

Action Items

- 1. Consider Adoption of November 5, 2020 Committee Meeting Minutes**
On a motion by Riley, seconded by Edwards, minutes of the November 5, 2020 committee meeting were approved on a roll-call vote of 2 – 0 by Riley and Edwards. Hoffmann was absent.
- 2. Consider Recommendation to Board to Fund Rebates in the California American Water System between January 1, 2021 and the Availability of Funding from the California American Water General Rate Case**
On a motion by Riley, seconded by Edwards, the committee recommended that the Board of Directors approve interim funding in the amount of \$200,000 for the rebate program. The motion was approved on a roll-call vote of 2 – 0 by Riley and Edwards. Hoffmann was absent.

Discussion Items

- 3. Update on Water for Near-Term Housing Needs Initiative**
Stoldt presented a graphic that outlined the timeline for completion of this initiative. The graphic can be viewed on the District's website. Stoldt stated that he met with primary consultants on the Senate Housing Committee and the Legislative Consultant to Nancy Skinner, the author of SB330 the Housing Crisis Act of 2019. They recommended that the District request that Senator John Laird and Assemblymember Mark Stone author a letter of support which could be presented to others for their concurrence. The District planned to prepare a draft application to the SWRCB requesting limited relief from Condition 2 of the Cease and Desist Order, and the ability to allocate 75 acre-feet of saved water. The draft application would be submitted to potential supporters, including cities within the District, for review along with a sample letter of support. After the

application is submitted to the SWRCB, letters of support should follow.

Public comment: Ande Flower, Principal Planner for the City of Monterey, expressed gratitude to the District for exhibiting leadership and solidarity with the City, as it could not plan ahead to construct affordable housing without the District's support.

4. Update on Action to be Taken Regarding Reduction in Diversion Limits Instituted by the State Water Resources Control Board

Stoldt reported that the District would notify the jurisdictions and the local press that no action would be taken by the District to invoke rationing or conservation rates in the 2020-2021 Water Year. At the December 14, 2020 Board meeting, the Board would review a letter for submission to the SWRCB chronicling the District's view that none of the applicants including the District were at fault for the missed milestone.

Public Comment: Mark Kelley asked if Mr. Stoldt's chart titled Supplies Required to Get off the River assumes that either the Pure Water Monterey Expansion project or Cal-Am's proposed desalination project should be approved within the next three years. *Stoldt responded that the District's position is that both projects would provide water for 30 years, but one of the projects is less expensive and environmentally superior to the other project.*

5. Suggest Items to be Placed on Future Agendas

The Water Supply Planning committee should review concerns about the possibility of seawater intrusion in the Seaside Basin.

Adjournment: The meeting adjourned at 3:35 pm.

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WATER DEMAND COMMITTEE

ITEM: ACTION ITEM

2. CONSIDER RECOMMENDATION TO BOARD ON FIRST READING OF ORDINANCE NO. 187, ESTABLISHING A WATER USE CREDIT PROCESS FOR DEPARTMENT OF DEFENSE SITES AND AUTHORIZING THE GENERAL MANAGER TO EXTEND WATER USE CREDITS FOR ONE YEAR FOR JUSTIFIABLE CAUSE

Meeting Date:	January 7, 2021	Budgeted:	N/A
From:	David Stoldt General Manager	Program/ Line Item No.:	N/A
Prepared By:	Stephanie Locke	Cost Estimate:	N/A

General Counsel Review: Draft ordinance is under review by counsel.

Committee Recommendation: N/A

CEQA Compliance: An initial study has been prepared and will be filed with the County Recorder's office and distributed to interested parties for comment.

SUMMARY: Draft Ordinance No. 187 (**Exhibit 2-A**) responds to direction from the Water Demand Committee to prepare an ordinance that establishes a process for the Department of Defense properties to have an extended length of time to utilize Water Use Credits, to reinstate credits that have expired during the newly extended period of time, and to recognize the Department of Defense as a Jurisdiction for future water Allocation. The ordinance also authorizes the General Manager to extend a Water Use Credit for up to one year for justifiable cause.

A similar consideration was given to Redevelopment Agency Sites when the Board adopted Ordinance No. 121 on August 15, 2005, to extend credit for Redevelopment Projects for up to 20 years. Staff's estimate of an extension to the Department of Defense Sites would extend/reinstate approximately 25 acre-feet of Water Use Credits.

An Initial Study has been prepared and will be filed and circulated this week. The California Environmental Quality Act (CEQA) certification will occur during the second reading and consideration of adoption of this ordinance.

DISCUSSION: Staff has long been aware of the significant amount of time it often takes for federally funded projects to receive appropriations to begin construction. Conversations with representatives of both the Presidio of Monterey and the Naval Postgraduate School (the two largest Department of Defense entities served by Cal-Am) resulted in requests for a future Allocation of water separate from the City of Monterey's and consideration of extending the length of time a Water Use Credit is available on these installations in the interim. Both facilities are located in Monterey, which has no water available for military projects.

The Department of Defense may need water/Water Use Credits for several projects in the next few years, many of which have been planned and approved, but have not received funding. The Presidio undertook a number of retrofit projects in the early 2000's in anticipation of receiving funding around that time, and when the projects were not undertaken, those credits expired. The shortage of space at the Presidio often results in the untimely demolition of buildings after construction of new ones, resulting in a post-project credit that can't be applied to a previous project. Staff, faculty, and students must wait for construction of the new building before vacating the old one for demolition. The opposite is also true where buildings are demolished to make space for new construction that is dependent on federal funding that may not come through. The Presidio has 7.11 Acre-Feet of documented Water Use Credit that will expire under the current rules in 2021.

The success of the Presidio's mission to train military linguists depends on its ability to modernize and expand its training facilities. In order to do this, the Presidio needs to have sufficient water available to offset projects so that it can comply with District law when a project moves forward. Ordinance No. 187 extends Water Use Credits at Department of Defense Sites for an additional ten years, making the credit available for a total of 20 years. It is anticipated that the current lack of water for construction will be replaced with new Allocations in the next several years when the Peninsula's water supply is legalized. In the meanwhile, the extension of credit to Department of Defense Sites will facilitate national security and the mission of these important facilities.

RECOMMENDATION: The Water Demand Committee should review draft Ordinance No. 187 and consider a supportive recommendation to the Board.

EXHIBIT

2-A Draft Ordinance No. 187

EXHIBIT 2-A

DRAFT

ORDINANCE NO. 187

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
ESTABLISHING A WATER USE CREDIT PROCESS FOR
DEPARTMENT OF DEFENSE SITES AND AUTHORIZING
THE GENERAL MANAGER TO EXTEND WATER USE CREDITS
FOR ONE YEAR FOR JUSTIFIABLE CAUSE**

FINDINGS

1. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
1. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
2. District Regulations require a Water Permit before any Person connects to or modifies a Connection to a Water Distribution System regulated by the District, such Person shall obtain a written permit from the District, as described in District Rules 21, 23 and 24. The addition of any Connection and/or modification of an existing water Connection to any Water Distribution System regulated by the District requires a Water Permit.
3. Department of Defense projects do not require approvals from the Jurisdiction in which they are located as they are federally owned lands outside the local Jurisdiction's control. For this reason, it is prudent to establish the Department of Defense as a separate "Jurisdiction" as defined by Rule 11.
4. Existing District Regulations, set forth at Rule 25, allow water credits to be created, but limit their use on the originating site to a term not to exceed ten (10) years. By comparison, a parallel District Regulation set forth at Rule 28 B, allows a water credit to be transferred to a public jurisdiction's allocation for use on any site, without an expiration limit. Rule 25 was originally added to the District Rules and Regulations by Ordinance No. 60 (6/15/92) and was thereafter amended by Ordinance No. 64 (10/05/92) and by Ordinance No. 71 (12/20/93).
5. The modifications enacted by this ordinance are intended to facilitate Department of Defense project planning and implementation. Department of Defense project approval and financing processes are often complex, and the time required to implement a Department of Defense project can often exceed the ten (10) year life of a water credit set forth in Rule 25.

EXHIBIT 2-A

6. The Department of Defense has two important schools in the City. The Defense Language Institute is located at the Presidio of Monterey. It is the primary language instruction facility for all branches of the military. The Naval Postgraduate School provides postgraduate degrees for military personnel and is a significant military research center.
7. The Department of Defense plays an important role in the Monterey Peninsula community. The armed forces comprise 18% of the City of Monterey's labor force according to the 2000 Census. There are three military installations in Monterey: The Coast Guard Station, the Naval Postgraduate School, and the Defense Language Institute at the Presidio of Monterey.
8. The Presidio undertook a number of retrofit projects and demolitions in the early 2000's in anticipation of receiving federal funding for various planned construction/reconstruction projects. Funding did not materialize, and those credits have expired or are about to expire. The projects are still in the Presidio of Monterey's Real Property Master Plan.
9. The shortage of space at the Presidio of Monterey often results in the untimely demolition of buildings after construction of new ones, resulting in a post-project credit that cannot be applied to a previous project. Staff, faculty, and students must wait for construction of the new building before vacating the old one for demolition.
10. The shortage of space at the Presidio of Monterey often results in the untimely demolition of buildings to make space for new construction that is dependent on federal funding that may not come through.
11. The Department of Defense Master Plan lists planned projects that would have used Water Use Credits that were not funded during the District's current ten-year credit window. The former uses may have been prematurely extinguished in anticipation of federal funding approvals that did not occur.
12. The success of the Presidio of Monterey's mission to train military linguists and the success of the Naval Postgraduate School depends on their ability to modernize and expand their training facilities. In order to do this, these Department of Defense Sites need to have enough water available to offset their projects so that they can comply with District law when a project moves forward.
13. The Department of Defense Foreign Language Proficiency Enhancement Program changes the student-to-instructor ratio and will result in a greater population of students and instructors. The Presidio of Monterey needs to train more linguists for deployment throughout the world because current projections indicate a shortfall in personnel properly trained to interface with people of other nations. The existing facilities at the Presidio of Monterey neither met current needs nor the projected requirements at the Defense Language Institute Foreign Language Center.¹

¹ Record of Decision for the Presidio of Monterey Real Property Master Plan Environmental Impact Statement, Monterey, CA (<https://www.federalregister.gov/documents/2014/01/09/2014-00153/record-of-decision-for-the-presidio-of-monterey-real-property-master-plan-environmental-impact>)

EXHIBIT 2-A

14. A similar consideration was given to Redevelopment Agency Sites when the Board adopted Ordinance No. 121 on August 15, 2005, to extend credit for Redevelopment Projects for up to 20 years.
15. This ordinance modifies the Water Use Credit expiration provision of District Rule 25.5 to extend the termination of a Water Use Credits that are associated with Department of Defense properties. This ordinance shall also add a definition for the term “Department of Defense Sites” to Rule 11 and clarify the meaning of the term “Site” within that same Rule.
16. This ordinance reinstates Department of Defense Water Use Credits that expired less than twenty years ago. According to District records, this equates to between 16.5-24.5 Acre-Feet: The difference in the amount of potential reinstated credit is the result of an issued Water Permit for a barracks project at the Presidio of Monterey that could expire creating a Water Use Credit of eight Acre-Feet.
17. This ordinance authorizes the General Manager to extend a Water Use Credit for up to one year for justifiable cause.
18. This ordinance shall amend and republish the Rules and Regulations of the Monterey Peninsula Water Management District.
19. CEQA finding..... (to be added prior to second reading)

NOW THEREFORE be it ordained as follows:

EXHIBIT 2-A

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the 2021 Department of Defense Water Credit Ordinance of the Monterey Peninsula Water Management District.

Section Two: **Purpose**

This ordinance shall streamline water credit provisions to facilitate governmental planning and operations for Department of Defense Sites. This ordinance adds a definition for Department of Defense Site, and the ten (10) year limit for such credit shall be replaced with a maximum period of twenty (20) years and shall apply retroactively to previously documented Water Use Credits. This ordinance also adds the Department of Defense to the list of Jurisdictions defined in Rule 11, and authorizes the General Manager to extend an expiring Water Use Credit for up to one year for justifiable cause.

Section Three: **Amendment to Rule 11**

Rule 11 shall be amended as shown below in *bold italic* type face.

DEPARTMENT OF DEFENSE SITE - “Department of Defense Site” shall mean all facilities and properties owned by one or more branches of the United States Department of Defense that are located within the MPWMD and that are supplied water by California American Water.

JURISDICTION – “Jurisdiction” shall mean one of the following: (1) Carmel-by-the-Sea, (2) Del Rey Oaks, (3) Monterey City, (4) Monterey County, (5) Monterey Peninsula Airport District, (6) Pacific Grove, (7) Sand City, ~~or~~ (8) Seaside, ***or a (9) Department of Defense Site.***

PARCEL – “Parcel” shall mean any unit of land which qualifies as a Parcel under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other Parcel (or are separated only by a road or easement), and (2) which have identical owners, and (3) have an identical present use; or (4) are an Accredited Institution of Higher Education Site, ***a Department of Defense Site***, a Jurisdiction Site, or a Public School District Site. The term “Parcel” shall be given the same meaning as the term “Site”.

SITE - “Site” shall mean any unit of land which qualifies as a Parcel under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other Parcel (or are separated only by a road or easement), and (2) which have identical owners, or (3) are an Accredited Institution of Higher Education Site, ***a Department of Defense Site***, a Jurisdiction Site, or a Public School District Site. The term “Site” shall be given the same meaning as the term “Parcel”.

Section Four: **Amendments to Rule 25.5**

1. Rule 25.5 shall be amended to incorporate a new subparagraph. Rule 25.5-C shall be replaced

EXHIBIT 2-A

with the text shown in *bold italic* type face.

- C. A Water Use Credit may be applied to and shall allow future water use on that Site at any time within a period of ten years. *A one-year extension may be granted by the General Manager for justifiable cause.* Subsequently, any remaining unused Water Use Credit shall expire.

- 2. Rule 25.5 shall be amended to incorporate a new subparagraph. Rule 25.5-E shall be replaced with the text shown in *bold italic* type face. The remainder of Rule 25.5 shall be renumbered. Except for this addition, no other change is made to Rule 25.5.

E. A Water Use Credit at a Department of Defense Site shall expire after twenty (20) years.

Section Five: Retroactive Application

The amendment to Rule 25.5 shall apply retroactively to all Water Use Credits documented by the District at Department of Defense Sites as of the effective date of this ordinance. Water Use Credits that expired as a result of having ten years pass since the Abandonment of Use shall be reinstated with a Water Use Credit available for a total of twenty years from the date Permanent Abandonment of Use occurred.

Section Six: Publication and Application

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

Section Seven: Effective Date and Sunset

This ordinance shall take effect at 12:01 a.m. on the 30th day after it has been enacted on second reading. This Ordinance shall not have a sunset date.

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 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 by Director _____, and second by Director _____, the foregoing ordinance is adopted upon this _____ day of _____, 2021, by the following vote:

EXHIBIT 2-A

AYES:

NAYS:

ABSENT:

I, David J. Stoldt, 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 on the _____ day of _____ 2021.

Witness my hand and seal of the Board of Directors this _____ day of _____ 2021.

David J. Stoldt, District Secretary

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