



*Mailed 5/28/04*

EXHIBIT 20-B

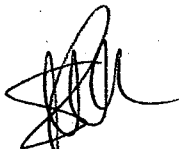
**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

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5 HARRIS COURT, BLDG. G  
POST OFFICE BOX 85  
MONTEREY, CA 93942-0085 • (831) 658-5601  
FAX (831) 644-9558 • <http://www.mpwmd.dst.ca.us>

**Date:** May 28, 2003

**To:** Interested Agencies

**From:** Stephanie Pintar, Project Manager, 831/658-5601 

**Subject:** NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION FOR  
MPWMD ORDINANCE NO. 117

Attached is the Notice of Intent to Adopt a Negative Declaration, along with the Initial Study, for Monterey Peninsula Water Management District (MPWMD) Ordinance No. 117. The proposed ordinance, which is enclosed with the proposed Negative Declaration, would clarify MPWMD Rules and Regulations that govern Water Use Credits and Cancellation of Permits and adds administrative processing fees for documenting Water Use Credits.

Ordinance No. 117 applies within the boundaries of the Monterey Peninsula Water Management District (MPWMD), including the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, portions of Monterey County (primarily Carmel Valley, Pebble Beach and the Highway 68 corridor), and the Monterey Peninsula Airport District.

**The review period is June 1, 2004 through June 21, 2004.** CEQA allows a 20-day review period for projects of local interest. The first reading of Ordinance No. 117 is scheduled before the MPWMD Board at a public hearing on June 21, 2004. The second reading and consideration of adoption of the Negative Declaration is scheduled for public hearing on July 19, 2004 at 7:00 PM at the Monterey City Council Chambers, City Hall (corner of Pacific and Madison Street), Monterey.

Please refer to the attached documents for more detailed information, or call me at 831/658-5601.



## MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

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### NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION AND PROPOSED NEGATIVE DECLARATION For MPWMD Board review on June 21, 2004

**1. PROJECT TITLE:** Adoption of Ordinance No. 117, "Water Use Credit Transfer Ministerial Amendment Ordinance."

**2. DESCRIPTION AND LOCATION OF PROJECT:** Proposed Ordinance No. 117 (Attachment 3) would revert the Water Use Credit Transfer approval process from discretionary to ministerial, would add safeguards to the transfer process to ensure water savings, and would add a list of standard conditions of approval to the District's Rules and Regulations. The ordinance would also address fees for receiving, processing, monitoring and enforcing Water Use Credit transfers and fees for processing requests to review water savings associated with installation of new water saving technology.

Ordinance No. 115 applies within the boundaries of the Monterey Peninsula Water Management District (MPWMD), including the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, portions of Monterey County (primarily Carmel Valley, Pebble Beach and the Highway 68 corridor), and the Monterey Peninsula Airport District. Each of these jurisdictions regulates land use within its individual boundaries and is responsible for CEQA review of individual projects that are proposed. The District does not regulate land use.

**3. REVIEW PERIOD:** The Review Period is June 1, 2004 through June 21, 2004. CEQA allows a 20-day comment period for issues of local importance.

**4. PUBLIC MEETINGS:** The first reading of Ordinance No. 117 will be considered at the MPWMD Board meeting of June 21, 2004. The second reading and adoption of the Ordinance and Negative Declaration is scheduled for public hearing on July 19, 2004 at 7:00 PM at the Monterey City Council Chambers, City Hall (Corner of Pacific and Madison Street), Monterey, California.

**5. LOCATION OF DOCUMENTS:** The proposed Negative Declaration and Initial Study, including supporting documentation and the administrative record upon which the Negative Declaration and Initial Study are based, and copies of proposed Ordinance No. 117, are available for review at the Monterey Peninsula Water Management District office located at 5 Harris Court, Bldg.

G, Monterey, CA 93940 (Ryan Ranch). **The staff contact is Stephanie Pintar at 831/658-5601.**

**6. PROPOSED FINDING SUPPORTING NEGATIVE DECLARATION:** Based on the Initial Study and the analysis, documents and record supporting the Initial Study, the Monterey Peninsula Water Management District Board of Directors finds that adoption of Ordinance No. 117 does not have a significant effect on the environment.

### **PROPOSED NEGATIVE DECLARATION**

Based on the finding that adoption of Ordinance No. 117, Amending Rule 28-B and Clarifying the Ministerial Review of Water Use Credit Transfer Applications, Setting Standard Conditions of Approval, and Setting Fees for Transfers and Review of New Technology, has no significant effect on the environment, the Monterey Peninsula Water Management District makes this Negative Declaration regarding MPWMD Ordinance No. 117 under the California Environmental Quality Act.

**CEQA GUIDELINES APPENDIX G**  
**MPWMD ENVIRONMENTAL CHECKLIST FOR ORDINANCE NO. 117**

<b>PROJECT INFORMATION</b>	
<b>1. Project Title:</b>	Adoption of Ordinance No. 117: "Water Use Credit Transfer Ministerial Amendment Ordinance"
<b>2. Lead Agency Name and Address:</b>	Monterey Peninsula Water Management District, PO Box 85, Monterey, CA 93942-0085 [Street address: 5 Harris Court, Bldg. G, Monterey, CA 93940]
<b>3. Contact Person and Phone:</b>	Stephanie Pintar, 831/658-5630
<b>4. Project Location:</b>	District-wide, see <u>Attachment 1</u> , map
<b>5. Project Sponsor's Name/Address:</b>	MPWMD, see #2 above
<b>6. General Plan Designation:</b>	Varies throughout District
<b>7. Zoning:</b>	Varies throughout District
<b>8. Description of Project:</b>	<p>Proposed Ordinance No. 117 (<u>Attachment 3</u>) would revert the Water Use Credit Transfer approval process from discretionary to ministerial, would add safeguards to the transfer process to ensure water savings, and would add a list of standard conditions of approval to the District's Rules and Regulations. The ordinance would also address fees for receiving, processing, monitoring and enforcing Water Use Credit transfers and fees for processing requests to review water savings associated with installation of new water saving technology.</p>
<b>9. Surrounding Land Uses and Setting:</b>	<p>Land uses within the District range from urban and suburban residential and commercial areas to open space/wilderness. The District encompasses the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, portions of Monterey County (primarily Carmel Valley, Pebble Beach and the Highway 68 corridor), and the Monterey Peninsula Airport District (<u>Attachment 1</u>). Each of these jurisdictions regulates land uses within its boundaries. The District does not regulate land uses.</p> <p>The Monterey Peninsula is dependent on local sources of water supply, which (directly or indirectly) are dependent on local rainfall and runoff. The primary sources of supply include surface and groundwater in the Carmel River basin, and groundwater in the Seaside Basin (<u>Attachment 2</u>).</p> <p>Vegetation communities on the Monterey Peninsula include marine, estuarine, and riverine habitats; fresh emergent and saline emergent (coastal salt marsh) wetland communities; riparian communities, particularly along the Carmel River; a wetland community at the Carmel River lagoon; and upland vegetation communities such as coastal scrub, mixed chaparral, mixed hardwood forest, valley oak woodland, and annual grassland. These communities provide habitat for a diverse group of wildlife. The Carmel River supports various fish resources, including federally threatened steelhead fish and California red-legged frog.</p>

10: Other public agencies whose approval is required: None

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |                                                 |                                                          |                                                             |
|-------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Aesthetics             | <input type="checkbox"/> Hazards and Hazardous Materials | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Agricultural Resources | <input type="checkbox"/> Hydrology and Water Quality     | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Air Quality            | <input type="checkbox"/> Land Use and Planning           | <input type="checkbox"/> Transportation/Traffic             |
| <input type="checkbox"/> Biological Resources   | <input type="checkbox"/> Mineral Resources               | <input type="checkbox"/> Utilities & Service Systems        |
| <input type="checkbox"/> Cultural Resources     | <input type="checkbox"/> Noise                           |                                                             |
| <input type="checkbox"/> Geology/Soils          | <input type="checkbox"/> Population and Housing          | <input type="checkbox"/> Mandatory Findings of Significance |

**DETERMINATION (To be completed by the Lead Agency)**

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project **COULD** have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or is "potentially significant unless mitigated." An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because all potentially significant effects:

- 1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards; and
- 2) have been avoided or mitigated pursuant to an earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project.

The earlier EIR adequately analyzes the proposed project, so **NO ADDITIONAL ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION** will be prepared.

Signature:

*Rice & Dickert* Date: *5/28/04*

Printed Name: Fran Farina

Title: MPWMD General Manager

## EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the entire action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less-than-significant level (mitigation measures from Section XVIII, EARLIER ANALYSES, may be cross-referenced).
5. The explanation of each issue should identify:
  - a. The significance threshold, if any, used to evaluate each question; and
  - b. The mitigation measure identified, if any, to reduce the impact to less than significant
6. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or Negative Declaration [Section 15063(c)(3)(D)]. In this case, a brief discussion should identify the following:
  - a. **Earlier Analysis used.** Identify and state where they are available for review.
  - b. **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analyses.
  - c. **Mitigation Measures.** For effects that are "less Than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
7. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated. A source list should be attached, and other sources used, or individuals contacted, should be cited in the discussion.
8. This checklist has been adapted from the form in Appendix G of the State CEQA Guidelines, as amended effective October 26, 1998 (from website).
9. Information sources cited in the checklist and the references used in support of this evaluation are listed in attachments to this document.

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<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>I. AESTHETICS</b> Would the project:					
a)	Affect a scenic vista or scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Have a demonstrable negative aesthetic effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Create adverse light or glare effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>II. AGRICULTURAL RESOURCES</b> Would the project:					
a)	Convert Prime Farmland, Unique Farmland, or Farmland of statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Involve other charges in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Note: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agricultural and farmland.</p>					
<b>III. AIR QUALITY</b> Would the project:					
a)	Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e)	Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Note: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the above determinations.					
<b>IV. BIOLOGICAL RESOURCES - Would the project:</b>					
a)	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish & Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish & Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Have a substantial adverse effect on federally protected wetlands defined by Section 404 of the Clean Water Act, including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>V. CULTURAL RESOURCES - Would the proposal:</b>					
a)	Cause substantial adverse change in the significance of a historical resource as defined in Sec. 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b)	Cause substantial adverse change in the significance of an archaeological resource pursuant to Sec. 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VI. GEOLOGIC AND SOILS. Would the project:</b>					
a)	Expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i)	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii)	Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii)	Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv)	Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Result in substantial soil erosion or loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**ENVIRONMENTAL ISSUES**

*(See attachments for discussion and information sources)*

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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**VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:**

- |    |                                                                                                                                                                                                                                                               |                          |                          |                          |                                     |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) | Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?                                                                                                                           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Create a significant hazard to the public or the environment through reasonably foreseeable upset and accidental conditions involving the release of hazardous materials into the environment?                                                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) | Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?                                                                                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) | Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) | For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) | For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?                                                                                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) | Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?                                                                                                                                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) | Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**VIII. HYDROLOGY AND WATER QUALITY. Would the project:**

- |    |                                                                      |                          |                          |                          |                                     |
|----|----------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) | Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|----|----------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b)	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h)	Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i)	Expose people or structures to a property to a significant risk of loss, injury or death involving flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j)	Inundation by seiche, tsunami or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>IX. LAND USE AND PLANNING. Would the project</b>					

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a)	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>X. MINERAL RESOURCES</b> Would the project:					
a)	Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XI. NOISE</b> Would the project result in:					
a)	Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	For a project within the vicinity of a private airstrip,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
would the project expose people residing or working in the project area to excessive noise levels?					
<b>XII. POPULATION AND HOUSING. Would the project:</b>					
a)	Induce substantial growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XIII. PUBLIC SERVICES. Would the project result in:</b>					
a)	Substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the following public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	i) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	ii) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	iii) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	iv) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	v) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XIV. RECREATION. Would the project:</b>					
a)	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Include recreational facilities or require the	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
construction or expansion of recreational facilities which might have an adverse physical effect on the environment?					
<b>XV. TRANSPORTATION/TRAFFIC</b> Would the project:					
a)	Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads and highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Result in a change to air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XVI. UTILITIES AND SERVICE SYSTEMS</b> Would the project:					
a)	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Require or result in construction of new storm water drainage facilities or expansion of existing facilities,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
the construction of which could cause significant environmental effects?					
d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Result in a determination by the wastewater treatment provider which serves or may serve the project that it has an adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XVII. MANDATORY FINDINGS OF SIGNIFICANCE</b>					
a)	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



**ENVIRONMENTAL ISSUES**  
*(See attachments for discussion and information sources)*

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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**XVIII. EARLIER ANALYSES**

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration [State CEQA guidelines Section 15063(c)(3)(D)]. In this case a discussion should identify the following on attached sheets.

- a) **Earlier analyses used.** *Identify earlier analyses and state where they are available for review.*
- b) **Impacts adequately addressed.** *Identify which effects from the above checklist were within the scope of, and adequately analyzed in, an earlier document pursuant to applicable legal standards. Also, state whether such effects were addressed by mitigation measures based on the earlier analysis.*
- c) **Mitigation measures.** *For effects that are checked as "Potentially Significant Unless Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.*

Not applicable.

Authority: Public Resources Code Sections 21083 and 21087.

Reference: Public Resources Code Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 31083.3, 21093, 21094, 21151; *Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296 (1988); *Leonoff v. Monterey Board of Supervisors*, 222 Cal. App. 3d 1337 (1990).

**DISCUSSION OF CHECKLIST ITEMS:**

For all categories, "No Impact" was checked. Based on the Initial Study, there are strong arguments that adoption of Ordinance No. 117 is exempt from further CEQA review. However, the District is choosing to review the modification in the approval level of the relocation of Water Use Credits from an existing commercial use to another, or from an existing commercial use to a jurisdiction, as a project under CEQA. The addition of safeguards to the transfer program ensures that water savings are achieved. Streamlining of the Water Use Credit transfer process may encourage more people to take advantage of the program, resulting in more Water Use Credit transfer approvals. Therefore, the District has undertaken an Initial Study of this program.

Historically, 60.843 acre-feet of water have been transferred since 1993. This figure equates to just over 0.3 percent of the overall total Cal-Am water use. Even if the water savings assumptions that Ordinance No. 117 is based upon are incorrect and the safeguards incorporated in the ordinance fail, the historic use of the program indicates that this program would have no measurable impacts on the environment.

Based on this Initial Study, the MPWMD believes that adoption of Ordinance No. 117 would have no actual or potential significant adverse environmental impacts; in fact, the ordinance could result in beneficial effects due to more consistent implementation of District Rules and Regulations and the addition of safeguards to the existing Water Use Credit transfer program. Furthermore, the MPWMD determines that there is an absence of substantial evidence from which a fair argument can be made that adoption of Ordinance No. 117 has measurable and meaningful actual or potential adverse environmental consequences. The MPWMD is aware that CEQA requires preparation of a Negative Declaration if there is no substantial evidence to support a fair argument that the project may cause a significant effect on the environment pursuant to CEQA Guidelines 15063(b)(2). For these reasons, the MPWMD intends to adopt a Negative Declaration regarding adoption of Ordinance No. 117.

Proposed Ordinance No. 117 would improve MPWMD Rule 28 (Commercial-to-Commercial and Commercial-to-Jurisdiction Transfers of Water Use Credits for Commercial and Industrial Uses). Although the ordinance changes the approval level of Water Use Credit transfers from a discretionary approval process to a ministerial process, the ordinance includes the following safeguards:

- Water Use Credit transfers must occur within a single jurisdiction;
- Water Use Credit transfers must occur within a single water distribution system;
- Water Use Credit transfers only occur with the prior approval of the jurisdiction;
- Transfer of a Water Use Credit permanently extinguishes the right to the Water Use Credit on the originating site;
- Water Use Credit transfers are only allowed from an existing commercial or industrial use;
- Water Use Credit transfers may only be applied to intensification of another existing commercial or industrial use or added to a jurisdiction's allocation;
- Water Use Credits must not originate from any prior open space water use;
- Property-to-property commercial water use credit transfers shall only enable intensification of an existing commercial or industrial water use capacity, as proposed by a current application for a water permit;
- Transfers shall not provide water use capacity for new commercial or industrial water meter connections;
- Transferred water credits shall not be "banked" for future use at any new or different site;
- The use of credits resulting from a property-to-jurisdiction transfer is at the discretion of the jurisdiction;
- Every jurisdiction utilizing water from a property-to-jurisdiction transfer must account for all water that was received through a water credit transfer, and the jurisdiction must clearly identify applicants that are authorized to use water from a commercial-to-public transfer on the Water Release Form and Water Permit Application;
- All Water Use Credit transfers shall originate only from prior documented commercial water use capacity and are subject to each and every limitation on the calculation of Water Use Credits set forth in District Rule 25.5;

- Transferable Water Use Credits will be calculated as follows: (1) categorize water use on the originating (donor) Site (i.e. Group I, Group II or Group III as listed in Rule 24, Table 2: Commercial Water Use Factors), (2) quantify the water use capacity existing on that Site, and (3) quantify the average actual annual water use for that Site;
- Average actual annual water use will also be calculated using the preceding ten (10) year water use record. When a ten year record is not available, the maximum number of annual water use records available, but no less than the preceding five (5) consecutive years of water use records, will be the used to compute the average actual water use for that Site. No transferable water credit shall be available if the minimum water use record is unavailable;
- The lesser of the factored use or the average actual water use will be the amount of transferable credit from demolition of a use;
- No credit will be transferred if the effect of the transfer would cause the originating site to have insufficient water credit to meet the water use capacity requirements of all existing structures on the transferring property site;
- If all prior water use is transferred from a site (due to demolition of all structures), the transfer will be approved only upon the removal of the meter connection from the originating site, and recordation of notice that all water use credits have been permanently extinguished as the result of a transfer;
- Transfers of Water Use Credits will only occur upon approval by the General Manager. The General Manager shall have sole and exclusive authority to determine the water use capacity that cannot be transferred by reason of capacity requirements for the originating Site;
- All transfers of Water Use Credits shall occur only when there is written (and recorded) agreement of the owner of record for the originating Site;
- The property owner(s) of the originating site shall consent to continuous monitoring of actual water use on the originating site and to public disclosure of that water use data for ten years after transfer. This agreement will run with the land and apply to any and all water meter accounts serving the originating Site. This requirement includes water meter accounts held by the property owners, property managers, renters or any other persons, firms or other entities that occupy the property or use water during the reporting time specified by the General Manager;
- Each property owner receiving water originating from a property-to-property Water Use Credit transfer must consent to continuous monitoring of actual water use on the recipient site and to public disclosure of that water use data for five years prior to issuance of a water permit utilizing any portion of water that originated from a Water Use Credit transfer and for five years after project occupancy. This agreement will run with the land and apply to any and all water meter accounts on the receiving site. This requirement includes water meter accounts held by the property owners, property managers, renters or any other persons, firms or other entities that occupy the property during the reporting time specified by the General Manager;
- For properties where a new or expanded water use is allowed by a property-to-jurisdiction transfer, the owner(s) of the receiving property must agree to the same conditions as required for a property-to-property transfer, including deed restrictions authorizing

- consent to monitoring and public disclosure of water use data;
- The General Manager holds the sole and exclusive authority to determine the water use capacity requirements for the receiving Site;
- The General Manager will not approve any water credit transfer where money or other valuable consideration has been given in exchange for the water credit transfer;
- The General Manager will not approve any capacity for expanded water use deriving from a transferred water credit in any circumstance where money or other valuable consideration has been given in exchange for use of the water credit. These limitations, however, allow the recipient of a water credit transfer to reimburse the donor of that credit for connection fees previously paid to the District for that increment of water;
- Violation of the prohibition on the transfer of water credit for money or other valuable consideration will result in immediate revocation of the transfer credit;
- Violation of the prohibition on the transfer of water credit for money or other valuable consideration is a misdemeanor as provided in Section 256 of the Monterey Peninsula Water Management District Law;
- Before any water use credit transfer shall occur, the applicant must pay the transfer fee required by Rule 60 for each originating site.

The changes in Rule 28 (shown in Section Three) have a minimal impact on the environment as discussed at the beginning of this section.

Section Four contains Conditions of Approval for the originating and receiving sites of any Water Use Credit transfer. This section has no impact on the environment.

The changes in Section Five have no impact on the environment. Section Five amends District Rule 63, Miscellaneous Fees, to add administrative fees to receive, process, monitor, review and enforce transfer applications submitted pursuant to Rule 28. This section also includes fees to review new or unproven water saving technology and administrative fees to monitor, review and enforce applications and/or permits for Special Circumstances granted pursuant to District Rule 24-G.

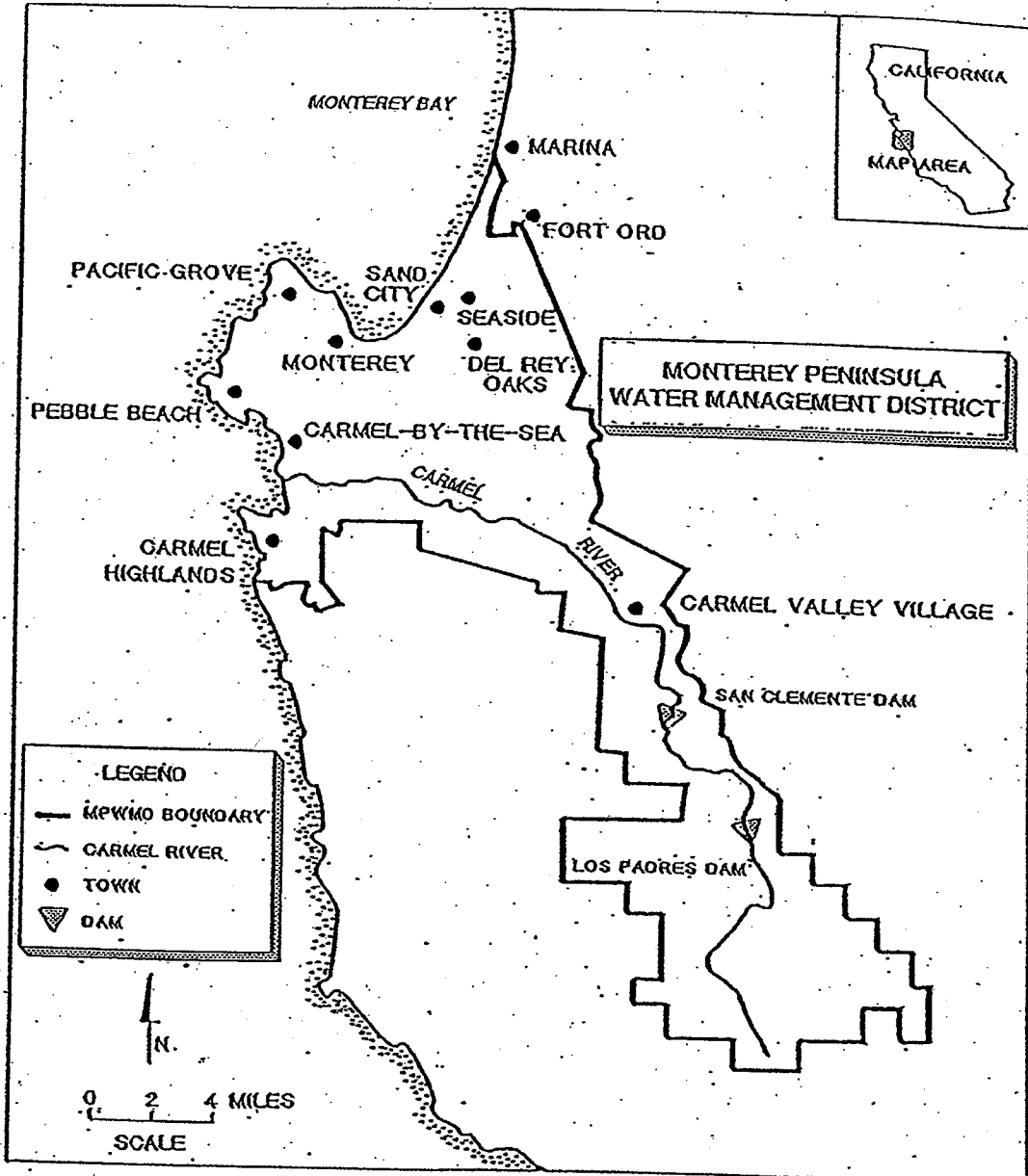
Sections Six, Seven and Eight contain legal language for any ordinance. These sections have no impact on the environment. Adoption of Ordinance No. 117 itself has no measurable impact on the environment. Adoption of Ordinance No. 117 is dependent on CEQA review conclusions and permitting processes by the local jurisdictions or agencies that may regulate a proposed project.

Prior to completion of this Initial Study and Negative Declaration, the MPWMD Water Demand Committee reviewed Ordinance No. 117 on May 11, 2004.

Ordinance No. 117, as well as supporting materials and documents, may be reviewed at the MPWMD offices, at the address and phone number listed above. These materials include (a) MPWMD Rules and Regulations, (b) Board agenda information supporting development of concepts for Ordinance No. 117 ("Board packets"), (c) Water Demand Committee staff reports and minutes supporting development of concepts for Ordinance No. 117, and (d) minutes of the February 25,

2004 MPWMD Technical Advisory Committee. Initial Study conclusions are also based on District staffs' professional assessments, knowledge and experiences, based on data on file at the District office. Public testimony and informal contact with members of the public and various local agency representatives also contribute to and support the Initial Study conclusions.

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Attachment 1



**DRAFT**

**ORDINANCE NO. 117**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
AMENDING RULE 28-B  
BY  
CLARIFYING THE MINISTERIAL REVIEW OF  
WATER USE CREDIT TRANSFER APPLICATIONS, SETTING STANDARD  
CONDITIONS OF APPROVAL, AND SETTING FEES FOR TRANSFERS AND  
REVIEW OF NEW TECHNOLOGY**

**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.
2. 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.
3. Rule 28-B of the Water Management District enables transfer of water credits documented pursuant to District Rule 25.5 from an existing non-residential use to another expanding non-residential use or to a jurisdiction for use at its discretion.
4. This ordinance amends Rule 28-B to clarify the ministerial authority to approve a water credit transfer.
5. This ordinance establishes administrative fees to receive, process, monitor, review and enforce Water Use Credit transfer applications received and processed pursuant to Rule 28-B.
6. This ordinance establishes administrative fees for reviewing new or unproven water saving technology, including fees for independent verification of water savings.
7. This ordinance establishes administrative fees to monitor, review and enforce applications and/or permits that include Special Circumstances under Rule 24-G.
8. This ordinance shall revise, amend and republish Rules 23, 25, 25.5, 27 and 60 of the Rules and Regulations of the Water Management District.
9. Ordinance No. 108 changed a ministerial process to a discretionary process. Due to the time and cost associated with making an application for transfer under that ordinance, it



was never utilized. This ordinance reinstates the water credit transfer approval process at the ministerial level.

10. The Board of Directors determines that this ordinance is an action taken by a regulatory agency to amend internal rules, and therefore finds that enactment of this ordinance has no measurable impact on the environment and that a Negative Declaration under the requirements of the California Environmental Quality Act is appropriate.
11. This ordinance shall revise, amend and republish Rule 28-B of the Rules and Regulations of the Water Management District.

NOW THEREFORE be it ordained as follows:

## ORDINANCE

**Section One:**        **Short Title**

This ordinance shall be known as the Water Use Credit Transfer Ministerial Amendment Ordinance.

**Section Two:**        **Purpose**

This ordinance revises, amends and republishes water use credit provisions set forth in District Rule 28- B by reverting from a discretionary approval process to a ministerial approval process and by clarifying standards for approval of requests made under Rule 28-B, including conditions of approval. This ordinance shall also address fees for Rule 28-B Water Use Credit transfers and fees for processing requests for review of water permit applications that proposed to install new water saving technology.

**Section Three:**        **Amendment of Rule 28-B (Property-To-Property And Property-To-Jurisdiction Transfers Of Water Use Credits For Commercial And Industrial Uses)**

A. The following Rule 28-B shall be revised as shown in bold italics (*bold italics*) and strikethrough (strikethrough):

**B. PROPERTY-TO-PROPERTY        AND        PROPERTY-TO-JURISDICTION  
TRANSFERS OF WATER USE CREDITS FOR COMMERCIAL AND  
INDUSTRIAL USES**

~~Water use credits for existing water use which has been allowed by the District on or after January 1, 1985, may be transferred from one property to another for commercial and industrial connections pursuant to this Rule and upon the approval of the Board of~~

~~Directors. Commercial and industrial water credits may also be transferred directly into a jurisdiction's allocation upon the approval of the Board of Directors. Open space and residential water use shall not be transferred. The following conditions shall apply:~~

- ~~1. Due to the District's ongoing concern about the viability of the available water supply and the possibility that water transfers may result in additional water usage, water transfers shall be approved by the Board of Directors, subject to the other provisions of this Rule, if the transfer will not have an adverse impact on the water supply. In exercising its discretion, the Board of Directors shall consider the impacts of the application under consideration, as well as the cumulative impacts of other transfers, on the water supply.~~
- ~~2. Water use credit transfers shall only occur within a single jurisdiction. No inter-jurisdictional transfer shall be allowed. Property to property transferred water credits shall not have any impact on a jurisdiction's allocation. Property to jurisdiction transfers shall increase a jurisdiction's available allocation.~~
- ~~3. Water use credit transfers shall only occur within a single water distribution system. No inter-system transfers shall be allowed.~~
- ~~4. Water use credit transfers shall only occur with the prior approval of the city, county or airport district.~~
- ~~5. Water use credit transfers shall only be allowed from an existing commercial or industrial use, and must be applied to the intensification of another existing commercial or industrial use or added to a jurisdiction's allocation. Other than transfers which add to a jurisdiction's allocation, transfer credits shall not originate from, or be transferred to, any residential use. Transfer credits shall not derive from any prior open space water use.~~
- ~~6. Property to property water use credit transfers shall only be used for intensification purposes. New water connections shall not be issued based upon a property to property transferred water use credit.~~
- ~~7. Property to property commercial water use credit transfers shall only enable intensification of an existing commercial or industrial water use capacity, as proposed by a current application for a water permit. Transfers shall not provide water use capacity for new commercial or industrial water meter connections. Transferred water credits shall not be "banked" for future use at any new or different site.~~
- ~~8. The use of credits resulting from a property to jurisdiction transfer shall be at the discretion of the jurisdiction.~~
- ~~9. All water use credit transfers shall originate only from prior documented commercial water use capacity and shall be subject to each and every limitation on the calculation of water use credits set forth in Rule 25.5.~~
- ~~10. All transfers of water use credits shall occur only by the written (and recorded) agreement of the owner of record for each parcel from which the transfer~~

~~originates. This agreement shall confirm that the transfer of water credit is irrevocable, shall quantify remaining water use capacity required by the originating parcel(s), and acknowledge that any intensification of water use capacity on the originating site thereafter shall result in additional connection charge fees. If all prior water use capacity is transferred from a site (due to demolition of all structures on that site), the recorded agreement and notice shall consent to permanent removal of the meter connection from the originating site, and acknowledge that the placement of a new meter shall be limited due to unavailability of water.~~

- ~~11. Transfer of water use credits shall only occur upon approval by the Board of Directors. The Board of Directors shall have sole and exclusive authority to determine the water use capacity, which cannot be transferred by reason of capacity requirements for the originating site. The Board of Directors shall have sole and exclusive authority to determine the water use capacity requirements for the receiving site. The Board of Directors shall not approve any water credit transfer where money or other valuable consideration has been given in exchange for the water credit transfer. The Board of Directors shall not approve any capacity for expanded water use deriving from a transferred water credit in any circumstance where money or other valuable consideration has been given in exchange for use of the water credit. These limitations shall nonetheless allow the recipient of a water credit transfer to reimburse the donor of that credit for connection fees previously paid to the District for that increment of water.~~
- ~~12. Violation of the prohibition on the transfer of water credit for money or other valuable consideration shall result in immediate revocation of the transfer credit.~~
- ~~13. Violation of the prohibition on the transfer of water credit for money or other valuable consideration is a misdemeanor as provided in Section 256 of the Monterey Peninsula Water Management District Law.~~
- ~~14. Transfer of water use credits shall not be approved by the Board of Directors if the effect of the transfer shall cause the originating site to have insufficient water credit to meet the water use capacity requirements of all existing structures on the transferring property site. If all prior water use is transferred from a site (due to demolition of all structures), the transfer shall be approved only upon the removal of the meter connection from the originating site, and the recordation of the notice specified above.~~
- ~~15. The effect of any approved water credit transfer shall be the irrevocable extinction of any right or entitlement to the actual water use, water use capacity, or water credit which has been transferred from the originating (transferring) site.~~
- ~~16. Before any water use credit transfer shall occur, the transfer fee required by Rule 60 for each originating site shall be paid by the applicant.~~

***Water use credits for existing water use which has been allowed by the District on or after January 1, 1985, may be transferred from one property to another for commercial and industrial connections pursuant to this Rule. Commercial***

*and industrial water credits may also be transferred directly into a jurisdiction's allocation. Open space and residential water use shall not be transferred. The following conditions shall apply:*

- 1. Water use credit transfers shall only occur within a single jurisdiction. No inter-jurisdictional transfer shall be allowed. Property-to-property transferred water credits shall not have any impact on a jurisdiction's allocation. Property-to-jurisdiction transfers shall increase a jurisdiction's available allocation.*
- 2. Water use credit transfers shall only occur within a single water distribution system. No inter-system transfers shall be allowed.*
- 3. Water use credit transfers shall only occur with the prior approval of the city, county or airport district.*
- 4. The effect of any approved water credit transfer shall be the irrevocable extinction of any right or entitlement to the actual water use, water use capacity, or water credit which has been transferred from the originating (transferring) Site.*
- 5. Water use credit transfers shall only be allowed from an existing commercial or industrial use, and must be applied to the intensification of another existing commercial or industrial use or added to a jurisdiction's allocation. Other than transfers that add to a jurisdiction's allocation, transfer credits shall not originate from, or be transferred to, any residential use. Transfer credits shall not derive from any prior open space water use.*
- 6. Property-to-property commercial water use credit transfers shall only enable intensification of an existing commercial or industrial water use capacity, as proposed by a current application for a water permit. Transfers shall not provide water use capacity for new commercial or industrial water meter connections. Transferred water credits shall not be "banked" for future use at any new or different Site.*
- 7. The use of credits resulting from a property-to-jurisdiction transfer shall be at the discretion of the jurisdiction. Every jurisdiction utilizing water from a property-to-jurisdiction transfer shall account for all water that was received through a water credit transfer, and shall clearly identify applicants that are authorized to use water from a commercial-to-public transfer on the Water Release Form and Water Permit Application.*
- 8. All water use credit transfers shall originate only from prior documented commercial water use capacity and shall be subject to each and every limitation on the calculation of water use credits set forth in Rule 25.5.*
- 9. Calculation of Transferable Water Use Credit.*

- a. *The General Manager shall (1) categorize water use on the originating (donor) Site (i.e. Group I, Group II or Group III as listed in Rule 24, Table 2: Commercial Water Use Factors), (2) quantify the water use capacity existing on that Site, and (3) quantify the average actual annual water use for that Site.*
- b. *The General Manager shall calculate average actual annual water use using the preceding ten (10) year record. When a ten year record is not available, the maximum number of annual water use records available, but no less than the preceding five (5) consecutive years of water use records, shall be the used to compute the average actual water use for that Site. No transferable water credit shall be available if the minimum water use record is unavailable.*
- c. *The General Manager shall calculate transferable credit from demolition of a use by using the lesser of (1) factored use; or (2) average actual water use.*
- d. *Transfer of water use credits shall not be approved by the General Manager if the effect of the transfer shall cause the originating Site to have insufficient water credit to meet the water use capacity requirements of all existing structures on the transferring property Site. If all prior water use is transferred from a Site (due to demolition of all structures), the transfer shall be approved only upon the removal of the meter connection from the originating Site, and the recordation of the notice specified above.*
- e. *Transfer of water use credits shall only occur upon approval by the General Manager. The General Manager shall have sole and exclusive authority to determine the water use capacity that cannot be transferred by reason of capacity requirements for the originating Site.*

**10. Originating Site Deed Restriction.**

- a. *All transfers of water use credits shall occur only by the written (and recorded) agreement of the owner of record for the originating Site.*
- b. *This agreement shall confirm that the transfer of water credit is irrevocable, shall quantify remaining water use capacity required by the originating parcel(s), and acknowledge that any intensification of water use capacity on the originating Site thereafter shall require a water permit and may result in additional connection charge fees and a water debit from the jurisdiction*

*authorized by a signed Water Release Form and Water Permit Application.*

- c. If all prior water use capacity is transferred from a Site (due to demolition of all structures on that Site), the recorded agreement and notice shall consent to permanent removal of the meter connection from the originating Site, and acknowledge that the placement of a new meter shall be limited due to unavailability of water.*
- d. The property owner(s) shall consent to continuous monitoring of actual water use on the donor Site and to public disclosure of that water use data for ten years after transfer. This agreement shall run with the land and shall apply to any and all water meter accounts serving the originating Site. This requirement shall include water meter accounts held by the property owners, property managers, renters or any other persons, firms or other entities that occupy the property or use water during the reporting time specified by the General Manager.*

#### **11. Receiving Site Deed Restrictions.**

- a. Each property owner receiving water originating from a property-to-property Water Use Credit Transfer shall consent to continuous monitoring of actual water use on the recipient Site and to public disclosure of that water use data for five years prior to issuance of a water permit utilizing any portion of water that originated from a Water Use Credit transfer and for five years after project occupancy. This agreement shall run with the land and shall apply to any and all water meter accounts on the receiving Site. This requirement shall include water meter accounts held by the property owners, property managers, renters or any other persons, firms or other entities that occupy the property during the reporting time specified by the General Manager.*
- b. For properties where a new or expanded water use is allowed by a property-to-jurisdiction transfer, the owner(s) of the receiving property shall agree to the same conditions as required for a property-to-property transfer, including deed restrictions authorizing consent to monitoring and public disclosure of water use data.*
- c. The General Manager shall have sole and exclusive authority to determine the water use capacity requirements for the receiving Site.*

12. *The General Manager shall not approve any water credit transfer where money or other valuable consideration has been given in exchange for the water credit transfer. The General Manager shall not approve any capacity for expanded water use deriving from a transferred water credit in any circumstance where money or other valuable consideration has been given in exchange for use of the water credit. These limitations shall nonetheless allow the recipient of a water credit transfer to reimburse the donor of that credit for connection fees previously paid to the District for that increment of water.*
  - a. *Violation of the prohibition on the transfer of water credit for money or other valuable consideration shall result in immediate revocation of the transfer credit.*
  - b. *Violation of the prohibition on the transfer of water credit for money or other valuable consideration is a misdemeanor as provided in Section 256 of the Monterey Peninsula Water Management District Law.*
13. *Before any water use credit transfer shall occur, the applicant shall pay the transfer fee required by Rule 60 for each originating Site. Every applicant applying for a permit using water that originated from a Water Use Credit Transfer under this rule shall be subject to administrative fees as shown in Rule 60.*
14. *All properties receiving water from a property-to-jurisdiction transfer shall receive a water permit from the District prior to issuance of a building permit by the jurisdiction.*
15. *Upon approval of a Water Use Credit Transfer, the jurisdiction in which the transfer occurs shall receive written notification of the action. The jurisdiction shall be notified of the precise amount of water that has either been applied to a water permit (commercial-to-commercial transfer) or has been transferred into the jurisdiction's water allocation (commercial-to-jurisdiction).*

**Section Four: Standard Conditions of Approval**

The following text in *bold italics* shall be added as District Rule 28-C, Standard Conditions of Approval for Water Use Credit Transfers. These conditions shall be applied to all Water Use Credit Transfers processed pursuant to Rule 28-B.

- I. *The property owner(s) of the originating Site of a Water Use Credit transfer shall consent to continuous monitoring of actual water use on the donor Site, and to public disclosure of that water use data, for a minimum of ten years after transfer. This agreement shall run with the land and shall apply to any and all water meter accounts on the originating Site. This requirement shall include water meter*

*accounts held by the property owners, property managers, renters or any other persons, firms or other entities that occupy the property or use water during the reporting time specified by the General Manager.*

2. *The property owner of the originating Site and the applicant to transfer from the originating Site shall each complete a Declaration Regarding Consideration Given for Transferred Water Use Credits for each application to transfer a Water Use Credit pursuant to Rule 28-B.*
3. *The property owner of a site receiving water from a Water Use Credit transfer shall consent to continuous monitoring of actual water use on the recipient Site, and to public disclosure of that water use data, for five years prior to issuance of a water permit utilizing any portion of water that originated from a Water Use Credit transfer and for five years after project occupancy. This agreement shall run with the land and shall apply to any and all water meter accounts on the receiving Site. This requirement shall include water meter accounts held by the property owners, property managers, renters or any other persons, firms or other entities that occupy the property during the reporting time specified by the General Manager.*
4. *The property owner of a site receiving water from a Water Use Credit transfer and his agent as specified on the Water Release Form shall each complete a Declaration Regarding Consideration Given for Transferred Water Use Credits for each application for a water permit that utilizes a transferred Water Use Credit.*
5. *Prior to issuance of a water permit, the water permit applicant utilizing any portion of a transferred Water Use Credit shall submit fees as required by District Rule 60.*
6. *Prior to occupancy of any project that received a water permit by using any portion of a transferred Water Use Credit, a final inspection by the District shall be required prior to occupancy.*

**Section Five: Amendment to Rule 63, Miscellaneous Fees**

The following bold and italicized text shall be added to District Rule 63 shall be amended to add the following fees:

***F. Fee for Water Use Credit Transfer:***

1. ***Administrative fee to receive, process, monitor, review and enforce transfer applications pursuant to Rule 28: \$2,240 (for first thirty-five (35) hours of staff time; \$70 per hour for each matter that requires additional time in excess of thirty-five (35) hours. A separate fee shall be assessed for each transfer site.***
2. ***Administrative fee to monitor and review water permit applications receiving water from a Rule 28 transfer: \$700 (for first ten (10) hours of staff time; \$70 per hour for each matter that requires additional time in excess of ten (10) hours. A separate fee shall be assessed for each transfer site.***



**G. Fee for Review of New or Unproven Water Saving Technology:**

**1. Administrative fee to review projects that utilize new water saving technology prior to submittal of a complete water permit application: \$2,800 for the first forty (40) hours of staff time; \$70 per hour for each matter that requires additional time in excess of forty (40) hours.**

- a. Prior to approval of water savings associated with new water saving technology, the applicant shall pay any additional fees incurred by the District for independent verification of water savings associated with the new technology. Applicant shall be given an estimate of the cost of any additional review and shall have the opportunity to withdraw the application prior to the District engaging in such a review.**

**H. Administrative fee to monitor, review and enforce applications and/or permits for Special Circumstance under Rule 24-G: \$1,400 (for first twenty (20) hours of staff time; \$70 per hour for each matter that requires additional time in excess of twenty (20) hours.**

**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 August 1, 2004.

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 \_\_\_\_\_, 2004, by the following vote:

AYES:

NAYS:

ABSENT:

I, \_\_\_\_\_, 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 \_\_\_\_\_ 2004.

Witness my hand and seal of the Board of Directors this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

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Secretary to the Board

