

EXHIBIT 16-A

Draft

Amendment to Rule 28-B (Property-To-Property and Property-To-Jurisdiction Transfers)

The proposed language is below. Deleted portions are shown in strikethrough type (~~strikeout~~) and added text is shown italicized and in bold face type (***bold face***):

28-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 General Manager*** ~~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~~ ***The Jurisdiction*** shall consider the impacts of the application under consideration, as well as the cumulative impacts of other transfers, on the water supply ***and shall forward to the District only those applications that do not have an adverse impact.***
 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.
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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 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 *District*. The *District 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 *District Board of Directors* shall have sole and exclusive authority to determine the Water Use Capacity requirements for the receiving site. The *District 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 *District 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.
 - 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.
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12. Transfer of Water Use Credits shall not be approved by *the General Manager* ~~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.
13. 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.
14. 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.”

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