

EXHIBIT 11-A

**DRAFT
ORDINANCE NO. 157**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
AMENDING RULE 11 (DEFINITIONS), REVISING RULE 23-A-1-I REGARDING
WATER MEASURING DEVICE REQUIREMENTS AND
AMENDING THE TITLE OF RULE 144**

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. This ordinance amends the definition of Connection Charge to cite authorization for the fee. It also adds an identical definition for the term “Capacity Fee” and replaces the former term with the latter throughout the Rules and Regulations to avoid confusion with a connection charge proposed in California American Water’s 2013 General Rate Case (A.13-07-002).
4. The term Connection Charge shall be universally replaced in the Rules and Regulations with the term Capacity Fee to avoid confusion with a the connection charge proposed in California American Water in its 2013 General Rate Case (A.13-07-002).
5. This ordinance amends Rule 23-A-1-i to clarify the District’s requirements for Water Measuring Devices.
6. This ordinance amends the title to Rule 144 – Retrofit Upon Change of Ownership or Use to reflect that the existing text of the rule also applies to Expansions of Use.
7. The proposed ordinance is not a project under CEQA and is therefore not subject to CEQA evaluation. CEQA Guideline §15378 (a) defines a “project” as an action that has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The proposed amendments to Rules 11 and 23 do not contemplate approval of any project, and therefore do not meet the “project” definition according to CEQA Guideline §15378 (b) (5) which states: “Organizational or administrative activities of governments that will not result in direct or indirect physical changes to the environment.”

8. This ordinance shall amend and republish the Rules and Regulations of the Water Management District.

NOW THEREFORE be it ordained as follows:

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ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the **2013 Connection Charge and Metering Clarification Ordinance** of the Monterey Peninsula Water Management District.

Section Two: **Purpose**

This ordinance amends the Connection Charge definition, adds the term “Capacity Fee,” clarifies requirements for Water Measuring Devices, and amends the title of Rule 144.

Section Three: **Amendment of Rule 11, Definitions**

Rule 11, Definitions, shall be amended as follows, with added language shown in *bold italic* type face and deleted language shown in ~~strikeout~~ type face. The term “Capacity Fee” shall replace the term Connection Charge throughout the Rules and Regulations of the District.

CONNECTION CHARGE – “Connection Charge” shall mean a fee retained by the District in consideration of, and as reimbursement for the costs and expenses incurred by the District in planning for, acquiring, reserving, and maintaining capacity in the water distribution facilities existing or to be constructed within the District. *The Connection Charge is authorized by the District’s enabling legislation (West’s Water Code Appendix §118-308) and by California Government Code §66013(a) and was adopted and implemented by MPWMD Regulation II and validated by Monterey County Superior Court in Case No. M 15851. The term “Connection Charge” shall have the same meaning as the term “Capacity Fee.”*

CAPACITY FEE – “Capacity Fee” shall mean a fee retained by the District in consideration of, and as reimbursement for the costs and expenses incurred by the District in planning for, acquiring, reserving, and maintaining capacity in the water distribution facilities existing or to be constructed within the District. *The Capacity Fee is authorized by the District’s enabling legislation (West’s Water Code Appendix §118-308) and by California Government Code §66013(a) and was adopted and implemented by MPWMD Regulation II and validated by Monterey County Superior Court in Case No. M 15851. The term “Capacity Fee” shall have the same meaning as the term “Connection Charge.”*

USER - “User” means a customer or consumer of water delivered by a Water Distribution System. User does not include any Owner or Operator of a Water Distribution System. Each residence, commercial enterprise, or industrial enterprise shall be deemed a separate and distinct User, ~~except that a User may extend incidental water use (e.g. a single Bar Sink) to another for convenience.~~

Section Four: **Amendment of Rule 23-A-1-i, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System**

Rule 23-A-1-i, Action on Application for a Water Permit to Connect to or Modify an Existing Water Distribution System, shall be amended as follows, with added language shown in ***bold italic*** type face and deleted language shown in ~~strikeout~~ type face.

- ~~i. The General Manager shall not issue a Water Permit which results in the installation of a new water meter that serves water to more than one User. Multiple Users shall apply for separate Water Permits pursuant to this rule. This provision, however, shall not prevent the issuance of a Water Permit which allows a single User to extend incidental water use (e.g. to a single Bar Sink). This provision shall be construed to enable the issuance of a Water Permit required by reason of a change in occupancy or use of an Existing Non-Residential Structure without a requirement to install separate water meters for each separate use or User, provided no substantial structural modifications are necessary to facilitate the changed use. Any such application shall nonetheless be processed in accord with Rule 24 (Calculation of Water Use Capacity and Connection Charges).~~
- i. Water Measuring Devices maintained by the Water Distribution System Operator shall be installed for each Residential and Non-Residential water User.*
- (1) A Non-Residential User may extend water use to another Non-Residential User within an existing structure unless the Remodel or Addition requires a Water Permit for a Change of Use (as defined in Rule 11).*
 - (2) A Change of Use as defined in Rule 11 shall trigger the requirement for a separate Water Measuring Device.*
 - (3) Users of multiple structures on a Site occupied by one Non-Residential User may apply for a variance of this Rule.*
 - (4) The General Manager shall consider Non-Residential variances to this Rule when the installation of separate Water Measuring Devices is not feasible. In considering a variance, the General Manager shall determine if another type of Water Measuring Device is appropriate and shall make reporting of consumption a condition of approval.*
 - (5) The Board shall consider Mixed Use and Residential variances to this Rule when the installation of separate Water Measuring Devices is not feasible. In considering a variance, the Board shall determine if another type of Water Measuring Device is appropriate and shall make reporting of consumption a condition of approval.*

Section Five: Amendment to Rule 144

The title of Rule 144 shall be amended as shown in *bold italics*.

RULE 144 - RETROFIT UPON CHANGE OF OWNERSHIP, OR USE, OR EXPANSION OF USE

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 _____, 2014 by the following vote:

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 _____ 2014.

Witness my hand and seal of the Board of Directors this ____ day of _____ 2014.

David J. Stoldt, Secretary to the Board

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