



EXHIBIT 14-A

DRAFT

ORDINANCE NO. 163

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AMENDING
AMENDING REGULATION XV, EXPANDED WATER
CONSERVATION AND STANDBY RATIONING PLAN**

FINDINGS

1. The Monterey Peninsula Water Management District (District or 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 is enacted to respond to present and threatened water emergencies, as provided by Section 332 of the District Law. Water emergencies addressed by this ordinance are created by legal circumstances which constrain the amount of water that is available to serve water users in the Monterey Peninsula area.
4. On July 6, 1995, the State Water Resources Control Board (SWRCB), in response to four complaints, issued Order WR No. 95-10 that found that the groundwater in the aquifer underlying and closely paralleling the Carmel River is water flowing in a subterranean stream and subject to the jurisdiction of the SWRCB.
5. SWRCB Order WR No. 95-10 also found that California American Water wells were drawing water from the subterranean stream associated with the Carmel River and had diverted an average of 10,730 acre-feet per year (AFA) without a valid basis of right.
6. SWRCB Order WR No. 95-10 directed California American Water to reduce its average

historical diversions from the Carmel River by 15% in Water Year 1996 and 20% in each subsequent water year until its unlawful diversions were terminated.

7. In Water Year 1997, California American Water's diversions from the Carmel River exceeded the limit specified in SWRCB Order WR No. 95-10 and the SWRCB issued an Administrative Civil Liability Complaint against California American Water.
8. On January 28, 1999, to enable compliance with SWRCB Order WR No. 95-10, the Water Management District adopted Ordinance No. 92 that established Regulation XV, the Expanded Water Conservation and Standby Rationing Plan.
9. Since establishment of the Expanded Water Conservation and Standby Rationing Plan in 1999, California American Water has complied with the diversion limits specified in SWRCB Order WR No. 95-10 every year.
10. On January 17, 2014, the Governor of the State of California proclaimed a state of emergency due to current drought conditions and called on Californians to reduce their water usage by 20 percent.
11. The U.S. Drought Monitor has designated the territory of the Monterey Peninsula Water Management District to be currently in a condition of extreme drought (February 3, 2015).
12. The provisions of this ordinance shall preserve the health and safety of the Monterey Peninsula's water users.
13. The measures adopted in this ordinance are necessary in order to improve and protect the quantity and quality of groundwater supplies within the District, to prevent a worsening of existing conditions, and to allow time to implement a definite and long-term water supply solution.
14. Amendments to the Rebate Program to allow California Non-Profit Corporations to receive Rebates for purchase and installation of more than 20 toilets on a Site are necessary to achieve water saving retrofits that would not otherwise occur.
15. Amendments to the Rebate Program to allow the Board discretion to incentivize Lawn removal at Public facilities by offering a Rebate for removal of large irrigated areas is necessary to respond to the current drought and to increasing levels of regulatory restrictions on potable water use.
16. Amendments to the Rebate amounts and the addition of new Non-Residential Rebates will facilitate greater water savings in the MPWMD.

17. This ordinance amends the water Rationing triggers that specify movement to Stages 4-7 of Regulation XV, Expanded Water Conservation and Standby Rationing Plan. These amendments are necessary to respond to changing conditions related to Water Supply in the Monterey Peninsula Water Resource System. The ordinance replaces specific targets in Rules 164-167 with Table XV-3 that can be amended by Resolution of the Board.
18. The following District Rules shall be amended by this ordinance: Rule 141 (Water Conservation Rebates), Rule 164 (Stage 4 Water Rationing), Rule 165 (Stage 5 Water Rationing), Rule 166 (Stage 6 Water Rationing), and Rule 167 (Stage 7 Water Rationing), and Rule 172 (Landscape Water Audits).
19. This ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301, Existing Facilities, for modifications to Rule 141, as these amendments relate to replacement of existing facilities with less water intensive uses.
20. Modifications to Regulation XV are exempt from the California Environmental Quality Act (CEQA) under Water Code §10652 and CEQA Guidelines §15282 (v).

NOW THEREFORE be it ordained as follows:

ORDINANCE

Section One: **Short Title**

This ordinance shall be known as the 2015 Rationing and Rebate Programs Amendment Ordinance of the Monterey Peninsula Water Management District.

Section Two: **Purpose**

In response to drought conditions and the need to bring about reduced water consumption on the Monterey Peninsula, this ordinance amends the Rebate Program to allow non-profit entities to receive a Rebate for installation of more than 20 Ultra High Efficiency Toilets, and gives the Board discretion to approve Rebates in excess of \$2,500 for Lawn removal at Public Sites. The ordinance establishes that Rebate amounts will be amended by Board Resolution. This ordinance also amends Regulation XV to address inconsistencies with water Rationing triggers and to establish the two day per week outdoor watering schedule.

Section Three: Amendments to Rule 141

Rule 141-A through 141-C shall be amended as shown below, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face. Table XIV shall be added to Rule 141-

The remaining provisions of Rule 141 shall remain unchanged by this ordinance.

RULE 141 - WATER CONSERVATION REBATES

A. QUALIFYING DEVICES

Rebates are available for purchase of the following Qualifying Devices within the boundaries of the Monterey Peninsula Water Management District. ***Qualifying Devices and the Rebate amount are shown in Table XIV-1:***

1. High Efficiency Dishwasher;
2. High Efficiency Clothes Washer ~~for~~ ***in a*** Residential use;
3. Instant-Access Hot Water System;
4. High Efficiency Toilet;
5. Zero Water Consumption Urinal;
6. One or more Cisterns installed as a component of an Irrigation System. Maximum available Rebate shall be for 25,000 gallons of Cistern storage capacity on a Qualifying Property;
7. Smart Controller;
8. Soil Moisture Sensors that control the irrigation cycles of a conventional automatic Irrigation System controller or Smart Controller. Gypsum block Soil Moisture Sensors shall not be included on the list of Qualifying Devices;
9. Removal of established Lawn and replacement with low water use plants or permeable surfaces (maximum of 2,500 square-feet¹);

¹ ***Lawn removal Rebate at a Public facility may exceed the square-footage limitation subject to Board approval.***

10. High Efficiency Urinal *in a Residential use*;
11. Pint Urinal;
12. Rotating Sprinkler Nozzle;
13. Water Broom. Maximum available Rebate shall be for two Water Brooms per Qualifying Property;
14. Commercial High Efficiency Clothes Washer *at a Residential Site* ~~designed and manufactured for Non-Residential uses~~;
15. Cooling Tower Conductivity Controller;
16. Water Efficient Ice Machine;
17. X-ray film processor recirculation system.
18. Cooling Tower Conductivity/pH Controller;
19. Dry Vacuum Pump;
20. Graywater Irrigation System;
21. High Efficiency Connectionless Food Steamer;
22. High Efficiency Commercial Dishwasher;
23. Retrofit of a medical equipment steam sterilizer that utilizes a continuous water flow with a water tempering device.
24. Ultra High Efficiency Toilet.

B. REBATE AMOUNTS

~~The following~~ Rebates shall be issued by the District on a first-come, first-served basis as long as funds remain available. ***Rebate amounts shall be listed in Table XIV-1. At no time shall a Rebate exceed the purchase price of the Qualifying Device.***

~~At no time shall the Rebate amount exceed the price of the Qualifying Device.~~

[INSERT TABLE XIV-1 HERE]

- ~~1. The Rebate for a High Efficiency Toilet shall be \$200 ***\$100*** per toilet.~~

- ~~2. The Rebate for High Efficiency Dishwasher shall be \$125.~~
- ~~3. The Rebate for High Efficiency Clothes Washer shall be \$500.~~
- ~~4. The Rebate for an Instant Access Hot Water System shall be \$200 per Qualifying Property.~~
- ~~5. The Rebate for an on-demand pump or point of source water heater as part of an Instant Access Hot Water System shall be \$100 per component, to a maximum of two components per Qualifying Property.~~
- ~~6. The Rebate for Zero Water Consumption Urinal shall be \$300.~~
- ~~7. The Rebate for a Smart Controller shall be \$100 for up to four stations. An additional \$10 shall be available per station up to twenty (20) stations or the actual cost, whichever is less. The District shall maintain a list of qualifying Smart Controllers.~~
- ~~8. The Rebate for installation and use of one or more Soil Moisture Sensor(s) on a conventional automatic Irrigation System shall be \$25 per sensor or the actual cost, whichever is less. Gypsum block Soil Moisture Sensors shall not qualify for Rebate.~~
- ~~9. The Rebate for Cistern water tanks installed on Sites supplied with water from the Monterey Peninsula Water Resource System shall be \$50 per 100 gallons for the first 500 gallons and \$25 per 100 gallons of water storage capacity to a maximum storage capacity of 25,000 gallons per Qualifying Property.~~
- ~~10. The Rebate for Lawn removal and replacement with low water use plants or permeable surfaces shall be \$1.00 per square foot to a maximum of 2,500 square feet per Qualifying Property.~~
- ~~11. The Rebate for a High Efficiency Urinal shall be \$200.~~
- ~~12. The Rebate for a Pint Urinal shall be \$300.~~
- ~~13. The Rebate for a Rotating Sprinkler Nozzle (minimum purchase and installation of ten) shall be \$4.00 each.~~
- ~~14. The Rebate for a Water Broom shall be \$150.~~

15. ~~The Rebate for a Commercial High Efficiency Clothes Washer shall be \$1,000. For the purpose of this Rebate, a Multi Family Residential Qualifying Property with a Common Laundry Room shall be considered a Non-Residential use.~~
16. ~~The Rebate for a Cooling Tower Conductivity Controller shall be \$1,000.~~
17. ~~The Rebate for a CEE Tier II Water Efficient Ice Machine shall be \$500.~~
18. ~~The Rebate for an X ray film processor recirculation system shall be \$2,500.~~
19. ~~The Rebate for a Cooling Tower Conductivity/pH Controller shall be \$2,500.~~
20. ~~The Rebate for Dry Vacuum Pumps shall be \$200 per 0.05 HP to a limit of 4 HP.~~
21. ~~The Rebate for a High Efficiency Connectionless Food Steamer shall be \$1,500 per compartment.~~
22. ~~The Rebate for a High Efficiency Commercial Dishwasher shall be:
 - a. ~~\$500 for an under counter model.~~
 - b. ~~\$1,000 for a single tank door type model.~~
 - c. ~~\$1,500 for a single tank conveyor.~~
 - d. ~~\$2,000 for a multi tank conveyor.~~~~
23. ~~The Rebate for a Graywater Irrigation System supplied by one Clothes Washer for irrigation shall be \$100.~~
24. ~~The Rebate for a Graywater Irrigation System supplied by one or more Bathrooms that have a Bathtub/Shower connected to a Graywater Irrigation System shall be \$100 per Bathroom. Residential limit: 4.~~
25. ~~The Rebate for a Non-Residential Graywater Irrigation System shall be considered on a case-by-case basis by the General Manager.~~
26. ~~The Rebate for a medical equipment steam sterilizer retrofit with a water tempering device shall be \$1,500.~~

~~27. The Rebate for an Ultra High Efficiency Toilet shall be \$250 **\$150**.~~

~~28. The Rebate for replacement of an Ultra Low Flush Toilet with a High Efficiency Toilet shall be \$50.~~

C. REBATE ELIGIBILITY

1. Rebates shall be issued for Qualifying Devices installed on Sites located within the District that are served by Water Distribution Systems regulated by the District. The Site shall be in compliance with District Rules prior to issuance of a Rebate.
2. No Rebate shall be issued for installation of Qualifying Devices that are required to be installed and maintained by Regulation XIV of the District *with the exception of High Efficiency Toilets installed at Sites owned and operated by California Non-Profit Corporations.*, and **n**No Rebate shall be issued for installation of Qualifying Devices that have been used to obtain a Water Permit. Rebates shall be available for all retrofits until the date the retrofit becomes mandatory, such as the date a Change of Ownership or Change of Use occurs, *or* a Water Permit is issued, ~~or the date a Non-Residential retrofit is required pursuant to Regulation XIV.~~ Rebates shall not be available for Qualifying Devices that ~~become~~ *have been required to be installed and maintained* mandated by local, State, or Federal water conservation programs.
3. Rebates shall be available only for the initial purchase of a Qualifying Device. Rebates shall not be issued for replacement of an existing Qualifying Device with the exception of *High Efficiency* Clothes Washers that have been removed from the Qualifying Property by a previous owner/tenant. Applicants submitting an application for a High Efficiency Clothes Washer Rebate on a Site that has previously qualified for a High Efficiency Clothes Washer Rebate may be required to provide information to substantiate a subsequent Rebate.
4. Ultra High Efficiency Toilets shall meet or exceed the EPA WaterSense labeling criteria and shall bear the WaterSense Label and be listed on the WaterSense website.
5. Rebates shall be available for a maximum of twenty (20) toilets on all Non-Residential Qualifying Properties with the exception of Qualifying

~~Properties~~ *Properties* owned and operated by a California Non-Profit Corporation.

6. Outdoor Water Use Rebates
 - a. Rebates for Cisterns shall be limited to 25,000 gallons of storage capacity on a Qualifying Property. All Cistern Rebate Sites shall have sufficient roof area to fill the capacity of the Cistern(s) after first flush during a “normal” Water Year and shall require verification of usable roof area by Site inspection.
 - b. Rebates for Lawn removal shall be available only to Qualifying Properties irrigated with water from the Monterey Peninsula Water Resource System.
 - c. To be eligible for any Rebate for Lawn Removal, Lawns must be green, regularly maintained at a low even height, irrigated regularly, and be well cared for at the time of application for a Rebate. Dead Lawns or Lawns that have been removed prior to issuance of a Lawn Rebate prequalification statement from the District shall not be eligible for a Rebate.
 - d. A minimum of 250 square-feet of Lawn shall be removed to qualify for Rebate.
 - e. Eligibility for any Lawn Removal Rebate shall be determined upon receipt of a complete application as described in Rule 141-E. The District will notify the Applicant by written prequalification documentation that the proposed Lawn removal and replacement proposal has been “prequalified.”
7. Non-Residential Rebates
 - a. Water Efficient Ice Machines shall be listed as CEE Tier II.
 - b. An X-ray film processor recirculation system shall be listed as a qualifying model by the California Urban Water Conservation Council Resource Center.
 - c. Rebates for Dry Vacuum Pumps shall be available only when the Qualifying Device is replacing a water (liquid) ring pump.

- d. Rebates for retrofitting medical steam sterilizers with water tempering devices are limited to those sterilizers that use a continuous water flow to cool the steam discharge.
- e. ~~Rebates for Commercial High Efficiency Clothes Washers shall be limited to twenty (20) per Site unless specific authorization for a greater number has been secured from the General Manager.~~

Section XXX: **Amendment to Rule 161, Stage 1 Water Conservation**

Rule 161-A shall be amended as shown below, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

Stage 1 is the first stage in the District’s Expanded Water Conservation and Standby Rationing Plan. During Stage 1:

- A. California American Water shall maintain its Water Year (October 1 through September 30) production from the Carmel River System *in compliance with regulatory restrictions imposed on the Carmel River basin* ~~below 11,285 Acre Feet (20 percent below historical production as determined in 1995).~~

Section XX: **Amendment to Rule 164, Stage 4, Water Conservation/Rationing**

Rule 164 shall be amended as shown below, with added language as shown in *bold italic* type face, and deleted language shown in ~~strikeout~~ type face.

- 1. Trigger

- 1. Physical Shortage Trigger

Stage 4 shall take effect for any Water Distribution System that relies, in whole or in part, on production or production offsets from the Carmel River System or the Seaside Coastal Subareas, on June 1 or such earlier date as may be set by the Board following the District’s May Board meeting if total usable storage in the Carmel River System and the Seaside Coastal Subareas on May 1 is ~~less than~~ *within the Stage 4 Rationing range shown on Table XV-3.* ~~27,807 Acre Feet and greater than 21,802 Acre Feet. If total usable storage is equal or greater than 27,807 Acre Feet on May 1, no water rationing shall be imposed.~~ *Table XV-3 shall be periodically updated by Resolution of the Board.*

2. Regulatory Trigger – Continued Non-Compliance with Regulatory Limits through Stage 3

Stage 4 shall be enforced for all Water Distribution Systems presently at Stage 3 when Stage 3 has been in effect for at least thirty (30) days and when the California American Water year-to-date production from the MPWRS shown in Table XV-1 exceeds one of the following standards:

- a. The year-to-date target at month end during the months of October through March; or
- b. The year-to-date targets for a consecutive seven (7) day period during the months of April, May or June; or
- c. California American Water’s production from the MPWRS shown in Table XV-1 on a year-to-date basis exceeds the year-to-date target on any single (1) day during July, August, or September.

3. Regulatory Trigger – Legally Ordered Reduction in Supply

Stage 4 shall be enforced in any Water Distribution System that does not rely to any extent upon production or production offsets from the Main California American Water System when that system is required to comply with a final Cease and Desist Order by the State Water Resources Control Board, the Seaside Watermaster or any other final court order that reduces available supplies by fifteen percent (15%) from base year production. The term “base year” shall refer to the Water Year immediately preceding any triggering order.

4. Emergency Trigger

Stage 4 shall be implemented for any Water Distribution System, private Well, or Water User upon adoption of a Resolution of the Board of Directors. In that Resolution, the Board shall find there is an immediate need to reduce production by fifteen percent (15%).

5. Delay of Stage Implementation

The General Manager may delay implementation of this Stage to ensure adequate operation of the program. Delays authorized by the General Manager

shall not exceed ninety (90) days.

B. SUNSET OF STAGE 4

1. Water Supply Availability

Stage 4 shall continue until rescinded by Resolution of the Board of Directors. ~~In that Resolution the Board shall find that the total usable storage in the Carmel River System and the Seaside Coastal Subareas portions of the MPWRS is greater than 27,807 Acre Feet. This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage 4 may be made as early as the January Board meeting if the total usable storage in the Carmel River System and the Seaside Coastal Subareas portions of the MPWRS is equal to or greater than 27,807 Acre Feet on January 1.~~

2. In the event total usable storage is greater than 27,807 Acre-Feet, the General Manager shall review California American Water's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table XV-1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 4, Water Users shall revert to Stage 1. If California American Water's year-to-date production exceeds the year-to-date goal specified in Table XV-1 of Rule 162, California American Water Users shall revert to either Stage 2 or Stage 3. If year-to-date production in the California American Water subsystems exceeds the year-to-date target specified in Table XV-2 of Rule 162, Bishop, Hidden Hills and Ryan Ranch Water Users shall revert to Stage 3.

Section XX: Amendment to Rule 165-167, Stages 5-7 Water Rationing

Rules 165-A-1, 166-A-1, and 167-A-1 shall be amended as shown below, with appropriate adjustments for each Rule's numbering, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

A. TRIGGER

1. Physical Shortage Trigger

Stage {5-7} shall take effect for any Water Distribution System that relies, in whole or in part, on production or production offsets from the Carmel River System or the Seaside Coastal Subareas, on June 1 or such earlier date as may

be set by the Board following the District's May Board meeting if total usable storage in the Carmel River System and the Seaside Coastal Subareas on May 1 is less than *within the Stage {5-7} Rationing range shown on Table XV-3. 27,807 Acre Feet and greater than 21,802 Acre Feet.* If total usable storage is equal or greater than 27,807 Acre Feet on May 1, no water rationing shall be imposed. *Table XV-3 shall be periodically updated by Resolution of the Board.*

Rules 165-B-1, 166-B-1, and 167-B-1 shall be amended as shown below, with appropriate adjustments for each Rule's numbering, with added language as shown in ***bold italic*** type face, and deleted language shown in ~~strikeout~~ type face.

B. SUNSET OF STAGE 5

1. Water Supply Availability

Stage 5 shall continue until rescinded by Resolution of the Board of Directors. In that Resolution, the Board shall find that the total usable storage in the Carmel River System and the Seaside Coastal Subareas is greater than ***the Stage {5-7} Rationing range shown on Table XV-321,802 Acre Feet.*** This determination will normally be made at the Board's May meeting. However, a determination to rescind Stage {5-7} may be made as early as the following January Board meeting ~~if the total usable storage in the Carmel River System and the Seaside Coastal Subareas is equal to or greater than 27,807 Acre Feet on January 1.~~

2. In the event total usable storage is greater than ***the amount required to trigger Stage 4 Rationing 27,807 Acre Feet,*** the General Manager shall review California American Water's year-to-date production. Upon compliance with the monthly year-to-date goals specified in Table XV-1 of Rule 162 and, unless otherwise specified in the Resolution rescinding Stage 5, Water Users shall revert to Stage 1.
3. Where Stage 5 has been imposed upon any Water Distribution System to comply with a final Cease and Desist Order by the State Water Resources Control Board, the Seaside Watermaster or any other final court order, Stage 5 shall continue until a Resolution of the Board of Directors is adopted that finds that the triggering order has been lifted or no longer applies to that Water Distribution System.

The remaining provisions of Rule 165-167 shall remain unchanged by this ordinance.

Section XX: Amendment to Rule 172-E, Landscape Water Audits

Rules 172-E shall be amended as shown below, with added language as shown in bold italic type face, and deleted language shown in ~~strikeout~~ type face.

A. Rule 172-E shall be amended as shown in bold italics (*bold italics*) and strikethrough (~~strikethrough~~).

LANDSCAPE IRRIGATION RESTRICTIONS

~~Unless watering is by drip irrigation or through a hand-held hose with a Positive Action Shut-Off Nozzle, †~~The following watering schedule shall apply:

1. ~~Odd Numbered Properties~~ *All Sites that require irrigation* shall water after ~~5 p.m.~~ or before 9 a.m. *or after 5 p.m.* on Saturdays and Wednesdays only. ~~This schedule shall also apply to properties located on the South or West side of the street in cities where no street address is available.~~
2. ~~Even Numbered Properties shall water after 5 p.m. or before 9 a.m. on Sundays and Thursdays only. This schedule shall also apply to properties located on the North or East side of the street in cities where no street address is available.~~
32. Sprinkler irrigation overseen by a professional gardener or landscaper who is available on Site may occur between 9 a.m. and 5 p.m., but *in no case shall irrigation occur on more than* ~~shall not exceed two watering~~ *two* days per week.
3. *Non-sprinkler water efficient irrigation managed by a properly set and maintained Smart Controller shall be allowed.*
4. *Hand watering with a hose shall require a quick acting Positive Action Shut-Off Nozzle.*

Section XX: 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 XX: **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 XX: **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 _____, 2015, 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 _____, 2015.

Witness my hand and seal of the Board of Directors this _____ day of _____ 2015.

David J. Stoldt, Secretary to the Board