

Appendix 5

Cal Am Water Allocation Plan

ORDINANCE NO. 3228

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA APPLYING CERTAIN RESTRICTIONS TO DEVELOPMENT IN PORTIONS OF THE UNINCORPORATED AREA OF THE COUNTY OF MONTEREY.

The Board of Supervisors of the County of Monterey, State of California ordains as follows:

SECTION 1:

It is hereby found and determined as follows:

1. FINDING: The Monterey Peninsula Water Management District established an allotment system for the Cal-Am Water Company based on a prorationing of the known water supply for each of the jurisdictions served by Cal-Am. The County's share is 34.952% of the total amount available. The maximum annual amount available is 18,600 acre feet, or 6501.07 AF for Monterey County.
EVIDENCE: Monterey Peninsula Water Management District Resolution No. 7820-4, dated July 12, 1982.
2. FINDING: The Monterey County Board of Supervisors established a system of priority of distribution of the 6501.07 AF of water allotted by the Monterey Peninsula Water Management District, and established an annual review of that priority system.
EVIDENCE: Monterey County Resolution No. 82-379, adopted August 24, 1982.
3. FINDING: Notification from Monterey Peninsula Water Management District to the effect that Monterey County has used 89.4% of its allotment.
EVIDENCE: Letter dated August 21, 1986 from Bruce Buel, General Manager, Monterey Peninsula Water Management District.
4. FINDING: The County has approved and issued permits on projects that are currently under construction and that have been determined to have a potential total water demand of 199.16 acre feet per year (AFY).
EVIDENCE: Planning Commission files No. 4965 and 5202 and building permit files in the Building Inspection Department.
5. FINDING: The current count of existing vacant legal lots of record will need a total of 402.17 AFY when developed.

EVIDENCE: Maps identifying vacant lots are on file in the Planning Department and perhousehold use factor for each area have been determined from the latest water use report from Cal-Am Water Service Company.

6. FINDING Of the 6501.07 AFY allotted to Monterey County, the remaining unused and uncommitted water totals 89.48 AFY.
7. FINDING: The Monterey County Planning Department has applications on file for project review that would require a total of 36.19 AFY.
8. FINDING: The Monterey Peninsula Water Management District has encouraged each of the jurisdictions within the District to consider the remaining water capacity as a constraint in the land use planning process and encourages a set aside reserve.
9. FINDING: In order to insure the availability of water for the future development of vacant legal lots of record as well as to insure an adequate supply of water for existing development, it is necessary for the Board of Supervisors, Monterey County to adopt an ordinance which would apply certain restrictions to development in portions of the unincorporated area of Monterey County.
10. FINDING: There is a current and immediate threat to the public health, safety, or welfare, and that approval of additional subdivisions, use permits, variances, building permits or any other applicable entitlement for use except as specifically exempted herein, would result in a threat to public health, safety, or welfare.

Since the adoption of the Interim Ordinance in September 1986 changes have occurred in the status of available water for new development. On January 12, 1987, the Monterey Peninsula Water Management District revised the water allocation for Monterey County to 6111.20 acre feet. Also since September 1986, the actual water use, as measured by Cal-Am has increased to 5624.80 acre feet. The total demand as of February 28, 1987 for actual use, committed projects and first priority development of existing vacant lots is 6183.86 acre feet. This is 72.66 acre feet more than the allocation.

SECTION 2:

No person, firm or corporation shall hereinafter, within those portions of the unincorporated area of the County of Monterey which are set forth and specified in Section 3 of this ordinance, intensify land use over that existing at the time the provisions of this ordinance became effective, except as otherwise provided in this ordinance. For the purpose of this ordinance "intensify land use" means new development resulting in an increase in the use of water on a building site over that level of use of water existing at the time this ordinance was applied to the property. No subdivision which results in new vacant lots may be considered. Applications for new development that would intensify land use shall not be considered, except as otherwise provided in this ordinance.

This ordinance shall not apply to or prohibit the following:

1. The construction of the first single-family dwelling on a vacant residential legal lot of record, additions to existing single-family dwellings, guesthouses, caretaker units, and that certain subdivision application numbered MS-86-19, and non-habitable structures accessory to a residential use.
2. New commercial development that would not require more than .414 acre feet of water annually per legal lot.
3. Additions to or expansion of existing commercial development where such addition or expansion does not increase the water use of such commercial development.
4. Completion and development of subdivisions for which a tentative map was approved prior to the adoption of this ordinance and which were included in priorities one through four on the water allocation schedule adopted by the Board of Supervisors on November 19, 1985. In addition, applications for residential subdivision that were deemed complete by the Planning Director before September 22, 1986, but not approved, may be considered.
5. Subdivisions or projects partially located in the California American Water Company service area, but which do not presently draw water from the California American Water Company system as their water source.
6. Projects other than subdivision, where an applicant demonstrates to the satisfaction of the Planning Director that water conservation measures proposed on or off the affected building site will, in combination with the project for which approval is sought, result in a minimum of 10% overall decrease in the use of water.

7. Applications for subdivision of land where all of the following criteria exist:
 1. The parcel when subdivided would result in two or more parcels meeting minimum density requirements, and
 2. The parcel contains two or more residential units each of which was either built or had a building permit issued prior to the adoption of this ordinance, and
 3. The new parcels would each contain one of the existing residential units, and
 4. There would be no net increase in the use of water as a result of the subdivision.
8. Projects that propose to use as their sole water source potable water which will be made available to the project, either through direct entitlement or as a result of the County's priority allocation, as a function of a water reclamation project which will augment the water supply.
9. Applications for subdivisions of property wholly located in the California American Water Company service area and which currently utilize water from existing on-site wells for agricultural purposes in addition to that supplied by the Company, provided there is no resulting net increase in the overall use of water.

SECTION 3:

The portion of the unincorporated area of the County of Monterey, State of California which is referred to in Section 2 is shown on that map entitled "Interim Ordinance Boundary of Water Constraint Area" which is attached hereto and made a part of this Ordinance.

SECTION 4:

It shall be the duty of the Zoning Administrator of the County of Monterey, State of California, and all officers and employees of said County herein charged by law with the enforcement of this ordinance to enforce all the provisions of the same.

Any person, firm or corporation, whether as principal or agent, employee or otherwise violating or causing or permitting the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment in the County Jail of said County of a term not exceeding 180 days or by both such fine and imprisonment. Such persons, firm or corporations shall be deemed to be guilty of a separate offense for each day during any portion of which any violation of this ordinance is

committed, continued, or permitted by such person, firm or corporation, and shall be punishable as herein provided.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained, contrary to the provisions of this Ordinance, and/or any use of any land, building, or premises, established, conducted, operated, or maintained contrary to the provisions of this Ordinance, shall be, and the same is hereby declared to be a violation of this title and a public nuisance.

The County may summarily abate the public nuisance and the County Counsel or the District Attorney upon order of the Board of Supervisors may bring civil suit, or other action, to enjoin or abate the nuisance.

Each day any violation of this article continues shall be regarded as a new and separate offense. The remedies provided in this Ordinance shall be cumulative and not exclusive.

Any person, firm or corporation who creates or maintains a public nuisance in violation of this title shall be liable for the costs of abatement which shall include, but not be limited to:

1. Costs of investigation;
2. Court costs;
3. Attorneys fees;
4. Costs of monitoring compliance.

Upon a continuation of the public nuisance after notice from the County to cease the nuisance, any person, firm or corporation shall be liable for the costs of abatement set forth above plus a civil penalty of fifty percent (50%) of those costs payable to the County in addition to any other costs of enforcement imposed by the court.

SECTION 5

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 6:

Should any person, firm or corporation violate the terms of this ordinance and any action is authorized either by the Board of Supervisors, County Counsel, or District Attorney, or is in fact filed by said agencies for said violation, no other action shall

be taken on any application filed by on behalf of said person, firm or corporation until the litigation has been resolved.

SECTION 7:

This ordinance shall expire on April 16, 1988. Should the Monterey Peninsula Water Management District adopt a policy, acceptable to the Board, granting back to a governmental jurisdiction additional water saved by conservation or other measures this ordinance shall expire upon the Board's adoption of a resolution signifying its acceptance of such a policy.

PASSED AND ADOPTED this 16th day of April, 1987 by the following vote:

AYES: Del Piero, Karas, Strasser Kauffman, Shipnuck
NOES: Petrovic
ABSENT: None

Karin Strasser Kauffman
Karin Strasser Kauffman, Chair

(SEAL)

ATTEST:

ERNEST K. MORISHITA
CLERK OF THE BOARD

By: *Nancy Lukerspill*
Deputy