

**EXHIBIT 12-A**

**DRAFT**

**ORDINANCE NO. 197**

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
ALLOCATING WATER FROM  
PURE WATER MONTEREY EXPANSION**

**FINDINGS**

1. The Monterey Peninsula Water Management District (“District”) is organized and exists under the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977, and published at Water Code Appendix, Section 118-1, et seq.) (“District Law”).
2. The District is charged under the Monterey Peninsula Water Management District Law with the integrated management of all ground and surface water resources in the Monterey Peninsula area.
3. State Water Resources Control Board (“SWRCB”) Order No. WR 95-10 dated July 6, 1995, determined that California American Water (“Cal-Am”) did not have the right to divert as much water from the Carmel River system as it historically did. The SWRCB, through Order WR 2009-0060, authorized Cal-Am to continue these diversion levels until 2017, and then again through Order WR 2016-0016 to 2021, at which point alternative water supplies were required to avoid significant threats to the health, safety and welfare of residents, businesses, visitors and property owners on the Monterey Peninsula.
4. The Pure Water Monterey (“PWM”)/Groundwater Replenishment Project (“PWM/GWR”) is an advanced water recycling project, jointly developed by MPWMD and Monterey One Water (“M1W”). The PWM Groundwater Replenishment Final Environmental Impact Report (“2015 EIR”) was certified by M1W in October 2015, with Addenda approved in June 2016, March 2017, and October 2017 to address project changes (SCH #2013051094; MPWMD/M1W 2015, 2016, 2017a, 2017b). Initially, the approved PWM/GWR Project had an operational capacity of 4.0 million gallons per day (mgd). In 2017, M1W approved a modification to the PWM/GWR Project that expanded operational capacity from 4.0 mgd

to 5.0 mgd (MPWMD/M1W 2019). The PWM/GWR Project is owned and operated by M1W. Currently, MPWMD sells 3,500 AFY of water from PWM/GWR to Cal-Am.

5. In 2019, M1W prepared a Draft Supplemental EIR for modifications to expand the water supply yield of the approved PWM/GWR Project. These modifications would expand facility peak capacity from 5 mgd to 7.6 mgd and would ultimately result in an additional 2,250 AFY of purified recycled water for injection into the Seaside Groundwater Basin. MPWMD would subsequently extract and sell a total average yield of 5,750 AFY to Cal-Am (MPWMD/M1W 2019). The PWM/GWR Project would also deliver 600 AFY to the Marina Coast Water District. The 5,750 AFY of water would replace a portion of the water supply for Cal-Am, which has been required by the SWRCB to reduce drafting water from the Carmel River to legally permitted levels. The Final Supplemental EIR (“2021 SEIR”) was certified in April 2021, and an Addendum was approved in November 2021 (SCH #2013051094, MPWMD/M1W 2020, 2021).
6. The District Law grants MPWMD general and specific powers to cause sufficient water to be available for present and future beneficial use or uses of lands or inhabitants within the District. MPWMD Rule 30 requires the District to establish a specific Allocation for each Jurisdiction to manage water supplies throughout the District.
7. The PWM Expansion provides a permanent replacement water supply that will enable the lifting of the SWRCB Cease and Desist Order (CDO) and the California Public Utilities Commission (“CPUC”) moratorium on the setting of new meters.
8. Ordinance No. 197 allocates a portion of the additional new water supply made available by the expansion of the PWM/GWR Project amongst the Monterey Peninsula Jurisdictions within the District’s service area. The District anticipates that the additional water supply will be on-line by the fourth quarter of 2025. The Amended and Restated Water Purchase Agreement for the Pure Water Monterey (PWM) Expansion project was signed in March 2023.
9. The District considered several factors when determining the allocation, including but not limited to historical average water consumption data, water production data, water availability, and estimates of job and population growth for each Jurisdiction based on the Association of Monterey Bay Area Governments (AMBAG) 2022 Regional Growth Forecast.

10. The District is allocating a portion of the new supply and retains flexibility to be able to allocate additional supply when needed to meet future water demands of the Jurisdictions.
11. In May 2023, the District authorized an environmental consultant to perform a literature review of Environmental Impact Reports (EIRs), Supplemental EIRs, general plans, etc. for water projects and future growth and then advise the District through a technical memorandum on the appropriate environmental action for the Allocation Process. The Technical Memorandum concluded (a) that the proposed water allocation qualifies as a project under CEQA because it is being undertaken by a public agency (the District) and has the potential for reasonably foreseeable indirect physical changes in the environment, such as facilitating land development through the provision of increased water supplies. In other words, the additional water that would be available to Jurisdictions in the Cal-Am Service Area within the District could facilitate development that would have otherwise been impossible due to lack of water availability; and (b) The document review determined that the Pure Water Monterey 2021 Supplemental EIR (SEIR) had already analyzed the growth-inducing and secondary environmental effects associated with the proposed water allocation, which is, in practice, a continuation of the District's existing water allocation program. Based on those findings, the District undertook preparation of an Addendum to the SEIR.
12. The District prepared the EIR Addendum which supported the District's determination that the additional water allocation is within the scope of the 2021 SEIR, did not require subsequent action under CEQA Guidelines Section 15162 and, in conjunction with the 2021 SEIR, adequately analyzes potential environmental impacts. The Addendum was adopted by the District Board in February 2024.

NOW THEREFORE, be it ordained as follows:

## **ORDINANCE**

**Section One:**     **Short Title**

This ordinance shall be known as the Pure Water Monterey Expansion Allocation Ordinance of the Monterey Peninsula Water Management District.

**Section Two:**     **Purpose**

This ordinance establishes initial Allocations of water from Pure Water Monterey Expansion for delivery by California-American Water Company to the Jurisdictions in the Monterey Peninsula Water Management District.

**Section Three: Amendment to Rule 31, Report on Status of Water Allocations**

Rule 31 shall be amended as shown in bold italics for new text (*bold italics*) and ~~strikeout~~ (~~strikeout~~) for deletions.

The District shall *prepare a Monthly Allocation Report for the Board of Directors with information about debits and credits to Allocations, Entitlements, and other water tracking processes related to Water Permits. This report shall be available to the public.* ~~prepare and distribute an annual record to each Jurisdiction showing the current water balance for each Allocation.~~

**Section Four: Amendment to Rule 33, Jurisdictional and Reserve Water Allocations**

Rule 33 shall be amended as shown in bold italics for new text (*bold italics*) and ~~strikeout~~ (~~strikeout~~) for deletions. Table 5 shall be added (not shown in bold italics):

**RULE 33 - JURISDICTIONAL AND RESERVE WATER ALLOCATIONS**

**A. JURISDICTIONAL ALLOCATIONS**

Permits to authorize new or Intensified Water Use from the California-American Water Company shall be issued by the District for use in any Jurisdiction pursuant to the application and approval process set forth in District ~~Rule 23~~*Regulation II*. The total quantity of new or Intensified Water Use in each respective Jurisdiction, shall not exceed the amounts set forth in ~~this section~~*Table 5, MPWMD Cal-Am Water Allocations by Jurisdiction:*

Carmel by the Sea	19.41 Acre Feet
Del Rey Oaks	8.10 Acre Feet
Monterey (City)	76.32 Acre Feet
Pacific Grove	25.77 Acre Feet
Sand City	51.86 Acre Feet
Seaside	65.45 Acre Feet
Monterey County	87.71 Acre Feet

Monterey Peninsula Airport District ————— 8.10 Acre Feet  
 District Reserve (Allocated) ————— 15.28 Acre Feet

*Table 5*

*MPWMD Cal-Am Water Allocations by Jurisdiction*

<i>Jurisdiction</i>	<i>Proposed PWM Expansion Allocation</i>	<i>Existing Allocation as of 11/ 30/24*</i>	<i>Total Jurisdictional Allocation*</i>
<i>Carmel</i>	<i>14 AF</i>	<i>2.479 AF</i>	<i>16.479 AF</i>
<i>Del Rey Oaks</i>	<i>6 AF</i>	<i>0 AF</i>	<i>6.000 AF</i>
<i>Monterey</i>	<i>141 AF</i>	<i>0.469 AF</i>	<i>141.469AF</i>
<i>Pacific Grove</i>	<i>32 AF</i>	<i>0.024 AF</i>	<i>32.024 AF</i>
<i>Sand City</i>	<i>14 AF</i>	<i>0 AF</i>	<i>14.000 AF</i>
<i>Seaside</i>	<i>21 AF</i>	<i>29.292 AF</i>	<i>50.292 AF</i>
<i>Unincorporated Monterey County</i>	<i>72 AF</i>	<i>10.940 AF</i>	<i>82.940 AF</i>
<i>Monterey Peninsula Airport District</i>	<i>44 AF</i>	<i>5.197 AF</i>	<i>49.197 AF</i>
<i>Department of Defense Sites</i>	<i>27 AF</i>	<i>0 AF</i>	<i>27.000 AF</i>
<i>District Reserve</i>	<i>2,175 AF</i>		<i>2,175 AF</i>

\*Allocation will be updated to reflect Paralta and Pre-Paralta Allocations remaining in each Jurisdiction upon the effective date of the ordinance. (This asterisked information shall not be published in Rule 33.)

**B. DISTRICT RESERVE**

The District Reserve Allocation shall refer to a quantity of water available for use at the District’s discretion, including future allocation. The District Reserve Allocation can be augmented by dedications of water from a Water Entitlement, Water Use Credit, Water Credit, or a new Source of Supply.

**C. WATER WEST ADJUSTMENT RESERVE**

A special reserve shall be ~~has been~~ established to ~~replenish~~ *separate from* the Monterey County Allocation for new *and intensified* water use *approved by Monterey County* which occurs within the boundaries of the former Water West Water Distribution System *in Carmel Valley*. ~~Replenishment of Monterey County's Allocation from this special reserve shall occur only upon the approval of water use for real property within the Water West boundary.~~ The total quantity of water use to ~~replenish Monterey County's Allocation~~ *available* pursuant to this paragraph shall not exceed 12.76 Acre-Feet (sales).

**D. LIMIT ON FUTURE WATER ALLOCATIONS COST OF ALLOCATION**

~~There will be no further allocation of water until an adequate water supply is established.~~ *There shall be no sale of water from an Allocation by a Jurisdiction. Water permitted from an Allocation shall, however, be subject to the Capacity Fee collected by the District.*

**E. RELEASE OF ALLOCATION**

*A Jurisdiction shall release water from an Allocation by use of the Water Release Form approved by the District. A Water Release Form shall expire after five years or more frequently as determined by the Jurisdiction. Jurisdictions are encouraged to maintain records of the release of water and expiration.*

**F. DETERMINATION OF ALLOCATIONS**

1. *The District began the process of determining Jurisdictional Allocations in 2023, culminating in a meeting on September 12, 2024, to provide a detailed overview of the District's methodology and process for distribution of the new supplies. The process was summarized for Jurisdictions' boards and councils at subsequent public meetings.*

*The methodology used by the District to determine the Allocations of water to be available in 2025 included, but was not limited to:*

a. *The recent 5-year average water demand by Jurisdiction.*

- b. *Total water supplies, inclusive of the Pure Water Monterey Expansion, were calculated and the existing recent 5-year average total demand was subtracted. Of the difference, 1,000 AF was identified to be held in the District Reserve as a “factor of safety.” The remainder was considered “available” for allocation.*
  - c. *The 25-year growth rate in water demand by Jurisdiction was forecasted based upon the Association of Monterey Bay Area Governments (AMBAG) Regional Growth Forecast, utilizing population growth for future Residential water use and job growth for future Non-Residential water use.*
  - d. *The alternate methodology of a survey was used for determining future demands for the Monterey Peninsula Airport District and the Army, Navy, and Coast Guard (Department of Defense Sites).*
  - e. *Adjustments, if any, were made for the 6<sup>th</sup> Cycle Regional Housing Needs Allocation (RHNA).*
  - f. *It was determined that the 25-year total increase in demand was less than the new supplies available for allocation. Based on each Jurisdiction’s forecasted 25-year demand, a portion of its future demand has been Allocated from the new available supply (Pure Water Monterey Expansion) and the remainder retained in the District Reserve, available for future allocation.*
  - g. *Existing unused Jurisdictional Allocations as of the effective date of this Ordinance were left intact.*
2. *The Board of Directors shall examine the Allocations at least every four years following the AMBAG Regional Growth Forecast. Allocations may be reviewed more frequently at the discretion of the Board.*

**G. BISHOP AND RYAN RANCH SUB-UNITS**

*Henceforth, water Connections in the Bishop and Ryan Ranch subsystems of Cal-Am shall be tracked and accounted for using the same methodology as the*

*Main California American Water System described in Regulation II, including the requirement for authorization of water from the Jurisdiction's Allocation as described in Rule 23 and calculated in Rule 24.*

**Section Five:      Availability of Allocations**

Each Jurisdiction should limit the release of water from its Allocation to projects that will not be completed before December 31, 2025, until Pure Water Monterey Expansion has received its final approval. All projects using an Allocation, with the exceptions of the Bishop, Ryan Ranch, and Hidden Hills units of Cal-Am, are subject to the moratorium on new Connections imposed by SWRCB Orders WR 2009-0060 and WR 2016-0016. Pre-existing Paralta and pre-Paralta Allocations may continue to be used in the interim.

**Section Six:      Residential Retrofit Credit (Ordinances 74 and 90)**

Ordinances No. 74 and No. 90 enacted a program allowing toilet retrofit water savings to be used to offset added water fixtures in Residential uses. The ordinances specified that the reinvested savings must be debited from a future allocation. From 1995 through 1998, 12.7 Acre-Feet (AF) of savings were used through the program. As required by the program, 12.7 AF shall be accounted for from the District Reserve Allocation.

**Section Seven:      Effective Date**

This ordinance shall take effect at 12:01 a.m. on March 1, 2025.

**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.

**PASSED AND ADOPTED** on this \_\_\_ day of \_\_\_ 2025 on a motion by \_\_\_\_\_ with a second by \_\_\_\_\_ by the following vote, to wit:



AYES:

NAYS:

ABSENT:

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing ordinance was duly adopted on the \_\_\_ day of \_\_\_\_\_ 2025.

Dated: \_\_\_\_\_

\_\_\_\_\_  
David J. Stoldt  
Secretary to the Board

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