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WATER RESOURCES
AGENCY
Monterey County Water Resources Agency
Ordinance No. 03789

AN ORDINANCE OF THE MONTEREY COUNTY
WATER RESOURCES AGENCY
ESTABLISHING WATER DELIVERY CHARGES
FOR MCWRA ZONE 2B, AND PROVIDING FOR THE ANNUAL
LEVY AND COLLECTION OF SAID CHARGES

COUNTY COUNSEL SUMMARY

This ordinance establishes water delivery charges to be levied in Zone 2B to pay for the Castroville Seawater Intrusion Project and the Salinas Valley Wastewater Reclamation Project. The ordinance provides for the annual levy of the charges, to be based on the quantity of project water delivered to each project water customer in Zone 2B, and for the collection of delinquent charges.

The Board of Supervisors of the Monterey County Water Resources Agency ordains as follows:

Section 1. Authority.

Under the Monterey County Water Resources Agency Act (Stats. 1990, Chap. 1159), Sec. 23, the Monterey County Water Resources Agency may impose water tolls or charges for the use of water served directly by the agency from any project developed and operated by the agency pursuant to the Agency Act, and may impose appropriate penalties and interest charges upon delinquent water tolls or charges. Under Sec. 12 of the Agency Act, said charges shall become a lien on property when delinquent.

Section 2. Procedure for annual adoption of charges.

A. Annual levies. Water delivery charges shall be levied and collected in the year in which the Castroville Seawater Intrusion Project first delivers project water for use by growers and in each year thereafter, for as long as the project is in operation, at a rate that is not less than \$7.60 per acre-foot of water.

B. Fiscal year basis. Water delivery charges shall be adopted on a fiscal year (July 1 through June 30) basis, on or before August 1 of the fiscal year for which the charges are to be levied.

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C. Charges levied in initial year of project operation. Charges for the first year of project operation are hereby levied and set at the amount of \$7.60 per acre-foot of water delivered. Said amount shall apply to all water delivered by the project in the first fiscal year in which the project delivers water. Charges for subsequent fiscal year shall be set as hereinafter provided.

D. Proposal by General Manager; recommendation by Board of Directors. Prior to the fiscal year for which charges are to be adopted, the General Manager of the Agency shall submit in writing to the agency Board of Directors the proposed amount of the water delivery charges, together with such documentation and justification as may be appropriate. At least one week before the Board of Directors' meeting at which the charges will be considered, the General Manager shall publish a notice of the public hearing, including the proposed amount of the water delivery charges. Following the public hearing the Board of Directors shall make recommendations to the Board of Supervisors concerning the adoption of water delivery charges.

E. Action by Board of Supervisors. After receipt of the recommendations from the Board of Directors, the Board of Supervisors shall, by board order, set a public hearing for consideration of the proposed water delivery charges and shall direct that notice of the hearing be published pursuant to Government Code Sec. 6066. Said notice shall include the amount of the proposed water delivery charges. Following the public hearing the Board of Supervisors may adopt water delivery charges by resolution. The Board shall not adopt a charge higher than that set forth in the public notice, without further notice and hearing.

F. Rate to be charged. For the first year in which the water delivery charge is levied, the rate of \$7.60 per acre-foot of water has been set at an amount such that the projected total amount of charges to be collected in Zone 2B will reflect an average of approximately \$19 for each acre of land subject to the charge. In subsequent years the water delivery charges may vary according to the financial needs of Zone 2B.

Section 3. Determining water use and collection of charges.

The agency shall, through the use of flowmeters, determine the amount of water delivered to each parcel or group of parcels of land in Zone 2B, and shall charge each responsible party at the prescribed rate for the delivery of such water. The responsible party shall thereupon be obligated to pay the charge.

Section 4. Installation of water meters.

Water meters shall be installed by the Agency on each turnout from the Castroville Seawater Intrusion Project. If a turnout serves more than one parcel, and the owners of those parcels desire to have additional meters installed in order to meter separately the water going to each parcel, the owners may, after first obtaining the General Manager's approval, install such meters and any additional piping needed at their own expense. Any such installation shall comply with Agency meter specifications and any other conditions that may be imposed by the Agency to insure the accuracy, completeness, and reliability of billings and to minimize disputes over billings from such meters. The General Manager shall not approve the installation of a meter on a particular parcel unless he or she finds that the parcel will provide adequate security for any delinquent water delivery charges.

Section 5. Billing procedure.

A. Billing period; reading meters. The Agency will read all meters approximately every three months to determine the quantity of water delivered through each meter. The period of time between such readings for each meter will be the billing period for that meter. Meters may be read on a staggered basis. If a billing period for any meter includes days in two fiscal years, and the water delivery charge is different in those fiscal years, the total quantity of water delivered through that meter will be prorated based on the number of days in that billing period in each fiscal year, and each prorated portion of that water will be billed at the rate for the applicable fiscal year.

B. Billing and payment. The Agency will mail a bill to each responsible party on or about the first week of January, April, July, and October, for water delivered during the preceding billing period. The responsible

party shall have 30 days from the mailing date within which to pay the bill without interest or penalty charges.

C. Contents of bill. The bill for the quarterly water charge shall show the following:

- (1) the mailing date of the bill,
- (2) the beginning and ending dates of the billing period for which water deliveries are being charged,
- (3) the name and address of the responsible party,
- (4) the identification number of the meter for which water deliveries are being billed,
- (5) the assessors parcel number of the parcel on which the meter is located,
- (6) the name and address of the landowner whose property will be liened if the charge is not timely paid, according to the last equalized Monterey County assessment roll;
- (7) the assessors parcel number against which the charge will become a lien if not timely paid,
- (8) the quantity of water delivered,
- (9) the water delivery charge rate,
- (10) the total amount of the water delivery charge for the billing period to be paid by the responsible party
- (11) the due date for payment of the charge
- (12) the interest and penalty rates to be paid if the charge is not paid by the due date.
- (13) any other information deemed appropriate by the General Manager

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Section 6. Determination of responsible party and parcels subject to liens for delinquent charges.

The responsible party who will be obligated to pay the bills for water delivered through any particular meter, and the parcels that will be subject to a lien for delinquent charges, shall be determined as follows:

A. Owner of parcel on which meter is located. The owner of the parcel on which each meter is located shall be the responsible party for that meter, and the parcel on which the meter is located shall be subject to liens for delinquent water delivery charges, unless another person is designated as the responsible party pursuant to this ordinance.

B. Owner of parcel served through meter. The owner of one or more parcels that are served through a meter that is located on a parcel of land not owned by that landowner shall nevertheless be the responsible party for that meter, when such owner executes and delivers to the Agency a written agreement to become the responsible party for all water delivered to any parcel through that meter and such agreement is approved by the General Manager. The written agreement shall include the location and assessor's parcel number of each parcel to which the water may be delivered, the acreage of each parcel, and such other information as the General Manager may require. If the General Manager finds that the parcels to which the water may be delivered will provide adequate security for delinquent water delivery charges, the General Manager shall approve the agreement. The responsible party shall then be as designated in the agreement, and delinquent water delivery charges shall become a lien on the parcels to which the water may be delivered pursuant to the agreement.

C. Person designated by owner of parcel on which meter is located. The owner of the parcel on which the meter is located may designate a responsible party for that meter. Such designation must be made in writing by the landowner, and shall include the following:

- (1) the full name and mailing address of the individual or corporation that is to receive and pay the bill as the responsible party,
- (2) the signature of the designated party accepting such responsibility, and

(3) the owner's signature and date of signature.

When a parcel of land has two or more owners, the signature of the landowners holding a majority interest in the parcel, by acreage or percentage of value, shall be sufficient to make the designation. Such designation shall be accompanied by a declaration stating that the signatories hold a majority interest in the parcel, by acreage or percentage of value. The landowner will still be obligated for any delinquent bill. Such delinquent bill shall become a lien on the parcel upon which the meter is located, pursuant to section 10 of this ordinance.

D. Person designated under section 7. The responsible party and the parcels subject to a lien for delinquent water delivery charges may be determined pursuant to section 7.

Section 7. Optional determination of responsible party when one meter delivers to two or more parcels.

When two or more parcels of land are served by a single water meter, then the responsible parties, the share of the bill for such water meter to be allocated to such responsible parties, and the parcels subject to liens for delinquent charges on such meter may be determined as follows:

A. Determination by General Manager. The General Manager may determine the appropriate land area to be billed for water delivered through any meter, based upon the land area served from such meter, and may designate the landowner on each parcel within the area to be billed as the responsible party for the portion of the bill allocable to such parcel. For each parcel within the area to be billed, the General Manager shall determine the percentage of the total irrigated acres within the area to be billed that is found on such parcel. Thereafter, in each billing period, the total water delivery charge for the meter shall be multiplied by that percentage for each parcel within the area to be billed, and the responsible party for each parcel shall be charged that portion of the total charge so computed. In any such case, any delinquent bills will become a lien on the parcels within the area served that are owned by the delinquent landowner.

B. Agreement by landowners. If the landowners

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affected by the decision disagree with the determination of the General Manager made under A, above, they may present a written and signed petition from all of the relevant parties served by a single meter. Said petition must set forth the following:

- (1) the name and address of each person who will be designated as a responsible party,
- (2) the percentage of water from said meter to be charged to each responsible party,
- (3) the location and assessor's parcel number of each parcel that will be subject to liens for delinquent charges,
- (4) such other information as the General Manager may require, and
- (5) the signatures and signature dates of all parties.

If the General Manager finds that the parcels proposed to be subject to liens for delinquent charges will provide adequate security therefor, the General Manager shall accept the petition and use its designations in future billings.

C. Petition by landowner. If a landowner affected by the General Manager's decision disagrees with the determination of the General Manager under A, above, but cannot get agreement from the other affected landowners, then the disagreeing landowner may present a written and signed petition to the General Manager. The petition must show the following:

- (1) the name and address of each person whom the petitioner would have designated as a responsible party,
- (2) the percentage of water from the meter that the petitioner would have charged to each responsible party, together with the basis for the petitioner's proposed allocation,
- (3) the location and assessor's parcel number of each parcel proposed to be subject to liens for delinquent water delivery charges, and

- (4) such additional facts and justifications as necessary to support petitioner's contentions.

The General Manager shall consider the petition, shall make such inquiries and studies as he or she deems appropriate, may meet separately or together with all affected landowners, and shall make a finding in writing on the issues raised by petitioner. One copy of the finding shall be sent to each affected landowner by certified or registered mail at his or her mailing address last known to the General Manager.

D. Appeals. Any landowner affected by any decision of the General Manager under this section may appeal the decision to the MCWRA Appeals Board. Said appeal must be made in writing and received by the agency within 45 days of the appellant's receipt of the finding. Except as otherwise specified herein, said appeal shall be conducted as provided in the section of MCWRA Ordinance No. 3539 pertaining to appeals, as now in effect or as subsequently amended or superseded.

Section 8. Interest charges.

An interest charge shall be added to each bill at the rate of 5% of the delinquent water charge for each month the bill is delinquent. Interest shall begin to accrue on the first day the bill becomes delinquent.

Section 9. Penalty charges.

A penalty charge shall be added to each bill that is delinquent for longer than three months. The amount of the penalty charge shall be determined as of the first business day following the third month of delinquency. The penalty charge shall be 50% of the total obtained by adding the amount of the delinquent charge and the amount of interest accrued and unpaid on the penalty determination date.

Section 10. Collection of charges as a lien on property

A. Lien on property. Delinquent charges, together with interest and penalties then or thereafter determined or coming due, shall become a lien on property and may be collected by the County Tax Collector in accordance with this section. Liens for the charges shall be of the same force and effect as liens for state and county taxes, and their collection may be enforced by the same means as

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provided for the enforcement of liens for state and county taxes.

B. Parcel list. On or before August 1, the Agency General Manager shall furnish in writing to the county board of supervisors and the county auditor a list designating each parcel of land within Zone 2B with respect to which there are any delinquent water delivery charges or any delinquent interest or penalties thereon, where such delinquency has existed for three months or more. The list shall state, for each such parcel, the amount of the delinquent water delivery charges, the amount of any interest and penalties accrued as of the date the list was prepared, and the rate at which penalties and interest will continue to accrue thereafter.

C. Levy of charges. Upon receipt of the list of parcels with delinquent charges, penalties, or interest, the Board of Supervisors of Monterey County shall, in the manner required by law for the levying of taxes for county purposes, levy on each listed parcel the amount of the delinquency for such parcel, together with penalties and interest accrued as of the date of the list and all penalties and interest accruing thereafter until all delinquent amounts on such parcel are paid in full.

D. Delivery of lien list to Tax Collector and Recorder. The Board of Supervisors shall direct that a copy of the list be delivered to the County Tax Collector and to the County Recorder, and upon recordation of the list, the delinquent and accruing amounts for each parcel on the list shall become a lien on such parcel.

E. Collection of charges. All county officers charged with the duty of collecting taxes shall collect delinquent water delivery charges, interest and penalties, along with the regular tax payments to the county. The charges shall be collected in the same form and manner as county taxes are collected, and shall be paid to the agency.

Section 11. Permissible use of revenues.

The revenues from water delivery charges shall be used exclusively to pay any costs of the Castroville Seawater Intrusion Project and the Salinas Valley Wastewater Reclamation Project, which projects supply irrigation water to MCWRA Zone 2B, including but not limited to the costs of planning, development, acquisition, construction, operation, and maintenance of

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the projects, and including capital costs and the retirement of any indebtedness incurred in connection with the projects.

Section 12. Accounting of funds.

The agency shall keep an accounting of water delivery charges separate and distinguishable from other Zone 2B funds. All moneys taken in as revenue and all moneys disbursed as expenditures shall be clearly accounted for. Such accounting shall be made available for public scrutiny during normal working hours of the agency.

Section 13. Severability.


If any part of this Ordinance, however large or small such part may be, is for any reason held to be invalid, such decision shall not affect the validity of the remaining parts of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each part thereof, irrespective of the fact that any one or more parts be declared invalid.

Section 14. Effective date.

This ordinance shall take effect thirty days after its final adoption by the Board of Supervisors.

PASSED AND ADOPTED this 8th day of November, 1994, by the following vote:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnsen, Karas
NOES: None
ABSENT: None


BARBARA SHIPNUCK, Chairwoman
Board of Supervisors

ATTEST:

ERNEST K. MORISHITA
Clerk of the Board

By 
Pamela Olivas, Deputy