



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

SUPPLEMENT TO 9/20/04

MPWMD BOARD PACKET

Attached are copies of letters received between August 6, 2004 and September 10, 2004. These letters are listed in the September 20, 2004 Board packet under item 14, Letters Received.

Author	Addressee	Date	Topic
Susan L. Himsworth	MPWMD Board	8/3/04	Moratorium on New Water Connections
Fred Meurer	David Berger	8/9/04	Water Permit Requirements for Window on the Bay Open Space
Russell McGlothlin	MPWMD Board	8/16/04	Proposed Changes to District Rules and Regulations Governing Water Distribution Systems
Betsy S. Lichti	David Berger	8/16/04	Desalination Proposals for Monterey Area <i>August 31, 2004 letter of response attached.</i>
Michael W. Stamp	Alvin Edwards	8/20/04	Water Credit Transfers
Richard H. Rosenthal	Alvin Edwards	8/23/04	Water Credit Transfers
Steve Bilson	MPWMD	8/24/04	Desalination
Jack Kidder	Alvin Edwards	8/24/04	Response to Letter from Denver Dale
August Louis	Larry Foy	8/31/04	Water Distribution System Application Process



**MONTEREY
PENINSULA
CHAMBER OF
COMMERCE**

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Mahoney Tancredi

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Crossroads Shopping
Village

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Sierra Holdings, LLC

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Peninsula

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Quail Lodge Resort & Golf
Club

Gill Campbell
SCRAMP Mazda Laguna
Seca Raceway

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Taygeta Network Security
Services

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County of Monterey

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Monterey Institute of
International Studies

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Community Hospital of the
Monterey Peninsula

Julie Ann Lozano
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Michele Wakeham
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Lucy Willman
Crossroads Shopping
Village

Brenda Roncarati
President/CEO

RECEIVED

AUG - 9 2004

MPWMD

August 3, 2004

MPWMD Board
PO Box 85
Monterey, CA 93942

Dear MPWMD Board Members;

Enclosed please find a duplicate of a letter Brenda wanted you to be copied on.

If you have any questions, please contact Brenda at 648-5359.

Sincerely,

Susan L. Himsworth
Administrative Assistant

Enclosure

Established 1908

380 ALVARADO STREET

MONTEREY

CALIFORNIA 93940

TEL 831.648.5360

FAX 831.649.3502

www.mpcc.com



**MONTEREY
PENINSULA
CHAMBER OF
COMMERCE**

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AUG - 9 2004

MPWMD

August 2, 2004

2004 Board of Directors

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Taygeta Network Security Svc

Mary Claypool
County of Monterey

Dr. Victor Cordell
Monterey Institute of International Studies

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Monterey County Weekly

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First National Bank

Robin Kubicek
Attorney at Law

Dan Limesand
Community Hospital of the Monterey Peninsula

Julie Ann Lozano
Candy Bouquet

Kelly Morgan
City of Sand City

Baird Pittman
USA Hosts Monterey

Michele Wakeham
Monterey County Fair

Lucy Willman
Crossroads Shopping Village

Brenda Roncarati
President/CEO

Steve Leonard
Vice President and Manager
California American Water Company
P.O. Box 951
Monterey CA 93942

Dear Mr. Leonard,

I am writing to inform you that the Monterey Peninsula Chamber of Commerce is strongly opposed to a moratorium on new water connections.

The Chamber understands the need to conserve water resources, and we have supported efforts to curb water use. But a moratorium on new connections would prevent future business development, and prevent existing businesses from expanding. This would not only be devastating to our local economy, but would create undue hardship for all Peninsula residents.

We urge California American Water Company to reconsider this ill-advised, counter productive effort.

Sincerely,

Brenda Roncarati
President/CEO

- C: Peter Baird, MPCC Chair
Kirk Avery, MPCC GAC Co-Chair
Dan Limesand, MPCC GAC Co-Chair
Greg Sellers, Sellers & Associates
Monterey Peninsula Water Management District Board

Established 1908

380 ALVARADO STREET

MONTEREY,

CALIFORNIA 93940

TEL 831.648.5360

FAX 831.649.3502

www.mpcc.com



RECEIVED

AUG 12 2004

MPWMD

August 9, 2004

Mr. David Berger
 General Manager
 Monterey Peninsula Water Management District
 5 Harris Court, Building G
 P O Box 85
 Monterey CA 93942-0085

Mayor:
 IAN ALBERT

Councilmembers:
 TERESA CANEPA
 HUCK DELLA SALA
 LYDE ROBERSON
 JACK VREELAND

City Manager:
 RED MEURER

Subject: Monterey Peninsula Water Management District Letter Dated June 30, 2004 from General Manager Fran Farina subject Water Permit Requirements for Window on the Bay Open Space

Dear Mr. Berger:

I forwarded subject letter to staff to determine how the City will resolve the water permit issue with the Water Management District for our Window on the Bay landscape improvements. While it is not evident from reading Ms. Farina's letter, it would seem that the length of time it has taken to resolve this matter is based more on a misunderstanding between Water Management District and City staff on what transpired since 2001.

I've attached a copy of a form from the Monterey Peninsula Water Management District indicating that a waiver was provided for an upgrade of a meter from 1" to 2" for landscape purposes for the property in question. When a letter eventually came to the City from the District indicating that a water permit would be required for the work underway, it was assumed that the water permit requirement had been resolved on the date of the attached form, January 5, 2001. Apparently, the plans were brought in at that time indicating that the City would be upgrading a water meter for the landscaping indicated on our drawings. Water Management District staff reviewing the drawing at that time made no indication that the plans would have to be resubmitted for the permit portion of this work. Regardless of what did or did not transpire, the City agrees that a water permit and/or the amount of water being used for our recent improvements be resolved between the District and the City.

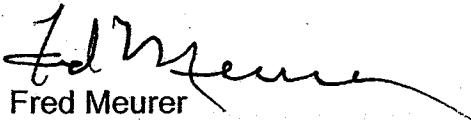
Regarding the requirements that Ms. Farina outlined that the District would want before providing a permit, the City believes that this is both extensive and somewhat punitive in nature. Ms. Farina's second option of issuing a water permit based on a field estimate of the water demand is more in line with past practice and is something the City could support. My suggestion, however, would be for the District to pull the water permits for what they have on record for our Window on the Bay improvements. City staff will bring drawings of what we have for the improvements and it can be determined how much water should be assigned for

Mr. David Berger
August 9, 2004
Page 2 of 2

the difference. The City's Deputy Public Works Director for Engineering Services, Les Turnbeaugh, at 831-646-3921 will contact your staff to resolve this matter.

I look forward in restoring any working relationship issues caused by this matter and wish you the best in your new endeavor.

Sincerely,



Fred Meurer
City Manager

c: Community Development Director
Deputy Public Works Director - Engineering
Senior Planner Rerig



MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT

5 Harris Court, Building G • P.O. BOX 85
Monterey, CA 93942-0085
(831) 658-5601 FAX (831) 644-9558

WAIVER: 18925
Date: 01/05/2001

MPWMD WAIVER

Applicant: CITY OF MONTEREY Phone: (831)646-3997
Agent: CITY OF MONTEREY Phone: (831)646-5615
Applicant Mailing Address: 353 CAMINO EL ESTERO
MONTEREY, CA 93940
Property Address: 951 DEL MONTE AVE MONTEREY, CA 93940

Water Company: CAL-AM
Allocation not debited Lot: AP Number: 001-801-005
Waiver Type: WAIVER (Residential)
Existing Land Use COMMERCIAL
Proposed Land Use UPGRADE METER Water Account Number:
Remarks: UPGRADE METER FROM 1" TO 2" FOR LANDSCAPE PURPOSES.

FIXTURES	NO. OF FIXTURES	FIXTURE UNIT VALUE	FIXTURE UNIT COUNT
----------	--------------------	-----------------------	-----------------------

I declare under penalty of perjury that the information on this waiver, the accompanying application, and any attachments is correct to the best of my knowledge and belief. I have had an opportunity to review the Rules and Regulations of the MPWMD. The undersigned, as property owner or agent thereof, hereby authorizes MPWMD staff to make on-site inspections as deemed necessary to insure the accuracy of this application and compliance with the waiver.

Furthermore, by signing this waiver, the undersigned acknowledges the District's right to assess and collect fees and impose fines for added water fixtures or changes in use occurring without amendment of the waiver. Water fixtures added without amendment of the waiver may be subject to a requirement of removal. The current title-holder of the property and/or his agent is responsible to insure completion of a Final Inspection by the MPWMD. Failure to arrange for a final inspection may result in a Notice of Violation recorded against the property, may subject a future property owner to fees and penalties, or may result in interruption of water service at the site.

Michael Monte
Signature of Property Owner/Agent

1/5/2001
Date

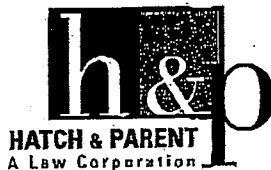
The Monterey Water Management District issues a waiver for the above project. This waiver constitutes your receipt for the total fees shown. This waiver may be revoked or other penalties imposed upon discovery of any substantial inaccuracy with respect to the above application.

Maria Martinez
MPWMD, Delegated Agent

01/05/2001
Issued

NOTE: This waiver does not guarantee service by any water company, public utility, or municipal water agency.
This waiver may be canceled at the request of the jurisdiction following notice to the property owner.

21 East Carrillo Street
 Santa Barbara, CA 93101
 Telephone: (805) 963-7000
 Fax: (805) 965-4333



Russell McGlothlin

August 16, 2004

RECEIVED

AUG 16 2004

MPWMD

By FAX and US MAIL

Board of Directors
 Monterey Peninsula Water Management District
 5 Harris Court, Building G
 Monterey, CA 93942-0085

Re: Proposed Changes to District Rules and Regulations Governing Water Distribution Systems

Dear Members of the Board of Directors:

The City of Seaside ("City") supports the Monterey Peninsula Water Management District's ("District") efforts to clarify and streamline the District's rules and regulations governing water distribution systems. The City is concerned, however, that the proposed ordinances discussed in the staff report for Item 16 of the August 16, 2004 Board agenda may extend these rules and regulations beyond the legal limitations of the District's statutory powers, and inappropriately encroach on matters that are currently before the superior court and are the subject of mediation next month.

Specifically, the City is concerned that the proposed ordinances, once drafted, will provide for the regulation of the City's water systems and impose limitations on production of groundwater from the Seaside Groundwater Basin ("Basin"). As the City has repeatedly informed the District, there is an unresolved legal question as to the District's statutory power to regulate the City's water systems. (See Gov. Code §§ 38730 *et seq.*; Pub. Util. Code §§ 10001, 10002; *Baldwin Park County Water Dist. v. County of Los Angeles* (1962) 208 Cal.App.2d 87; see also *Lawler v. City of Redding* (1993) 7 Cal.App.4th 778.) Similar legal issues exist concerning the District's regulation of California American Water, which is comprehensively regulated by the California Public Utilities District. (See *California Water and Tel. Co. v. County of Los Angeles* (1967) 253 Cal.App.2d 16.)

Further, the City has also previously informed the District that its enabling act ("Act") provides a specific procedure and method for regulation of groundwater production, which does not appear to be contemplated by these ordinances. In brief, the Act's approach to groundwater management is premised upon the District providing an alternative water supply in lieu of groundwater production if it desires to reduce groundwater production in a particular location.

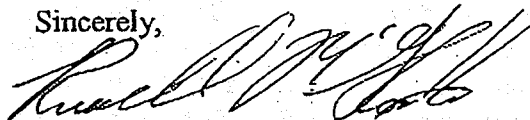
Board of Directors
August 16, 2004
Page 2

(Water Code App. § 118-366.)¹ Further, the Act reflects a statutory intent that any regulation of groundwater production be consistent with California's water rights framework. The City is concerned that the proposed ordinances will not be legally consistent with these principles.

In drafting and considering these ordinances, the District should also recognize that the issues of groundwater production limitations and the District's appropriate regulation of groundwater within the Basin are presently pending before the Monterey Superior Court in the case of *California American Water v. City of Seaside, et al.*, Case Number M66343. The District is a party to this action and will be participating in mediation beginning in September before retired justice, Nat Agliano. The City hopes that the upcoming mediation will produce a settlement of the case in which the District participates in a consensus-based and court-implemented management plan to regulate the amount of production from the Basin, and to ensure the permanent protection of the Basin's water supply.

Accordingly, the City requests that the District focus its efforts in relation to the two proposed ordinances on streamlining the administrative process pertaining to permitting water distribution systems, and not embark on substantive changes to the District's regulatory approach, which may prematurely and unnecessarily raise legal issues that are presently being addressed through other venues. Thank you for considering the City's concerns as to these proposed ordinances. Please feel free to contact me should you wish to discuss any of the matters set forth in this letter.

Sincerely,



Russell McGlothlin
For HATCH & PARENT
A Law Corporation

Cc: Scott Slater, Esq.
Stuart Somach, Esq.
Nick Jacobs, Esq.
Craig Parton, Esq.
David Laredo, Esq.
Jim Heisinger, Esq.
Robert Wellington, Esq.
Deborah Mall, Esq.

¹ The District is also empowered to implement a groundwater production charge to raise revenue to fund the provision of alternative water supplies for this purpose, but there is a prescribed procedure and express limitations on the means of adopting such a charge. (Water Code App. §§ 118-343 - 118-346.)



SANDRA SHEWRY
Director

State of California—Health and Human Services Agency
Department of Health Services
Northern California Drinking Water Field Operations Branch
Monterey District



ARNOLD SCHWARZENEGGER
Governor

August 16, 2004 **RECEIVED**

AUG 18 2004

MPWMD

Mr. Dave Burger, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
P.O. Box 85
Monterey, CA 93942-

Dear Mr. Burger:

RE: Desalination Proposals for Monterey Area

There are several proposals currently under review for seawater or beach well desalination projects to provide potable water for domestic uses in the Monterey area. Although desalination treatment of seawater is not a new concept in California, the number of proposed treatment plants and volume of flow proposed to be treated is taking on new proportions. The Department of Health Services, Drinking Water Program has the responsibility for ensuring that public water systems reliably provide healthful, safe and potable water. We are updating the Department's guidance document that discusses the protocol for applying the regulatory statutes of the Surface Water Treatment Rule to desalination facilities, which replaces our 1991 Desalination Policy.

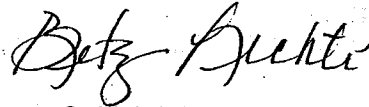
The Department desires to work with you on the projects intended to serve the Monterey Peninsula. To facilitate the District's evaluation of these proposals, the Department has summarized our process for reviewing a desalination project for compliance with the Safe Drinking Water Act and regulations pertaining to surface water treatment. This summary is attached in draft form for your use, and will be provided to you in final form along with our updated desalination guidance, when available. We invite you to contact us to further discuss these issues as they relate to the proposed desalination plants.

The Department has also recognized that there are aspects of water system oversight that are under the jurisdiction of both of our agencies. The Department would like to partner with you on water supply issues within your District boundaries. To facilitate communication on such issues, our Monterey District office will begin providing the District with copies of our correspondence on issues related to public water systems under our jurisdiction that are located within the District's boundaries. We have identified the following public water systems under Department oversight that meet this criteria:

- California American Water Company-Monterey
- California American Water Company-Bishop
- California American Water Company-Hidden Hills
- City of Seaside
- City of Sand City (proposed public water system)

If you have any questions regarding these issues or would like to meet to discuss the desalination proposals or other issues related to water systems under our jurisdiction, please contact me at (831) 655-6933.

Sincerely,



Betsy S. Lichti, P.E.
District Engineer, Monterey District
DRINKING WATER FIELD OPERATIONS BRANCH

BSL/bl
Enclosure

cc: Monterey County Division of Environmental Health

**Process for
CDHS Review, Approval and Permitting of a Desalination Treatment Plant
DWFOB-Monterey District
August 2004**

1. Submittal of a Watershed Sanitary Survey and Source Water Assessment that includes characterization of the source water.

The desalination treatment facilities will be required to comply with the State's Surface Water Treatment Regulation (SWTR), with review and permitting by the Department. The Hydrology/Water Quality evaluation in the EIR should include evaluation of a full watershed sanitary survey (WSS) of the source water. The WSS is required prior to Department approval of any new surface water source and will allow the Department to determine the overall pathogen reduction requirements for the source water and evaluate the need of the treatment process to remove any chemical contaminants.

The WSS should identify and describe all sources of actual or potential contamination affecting the intake including but not limited to: ocean outfalls (specify the degree of wastewater treatment and disinfection); river, creek and drainage outlets (describe the watershed and the amount of flow); points of urban and agricultural runoff; marinas, docks, ship channels and mooring areas (describe control measures to prevent dumping of wastes from boats) and sewage pump stations; and the occurrence of biotoxins in the source water.

The watershed boundaries should be fully delineated, to include the contributing area to the intake under all tidal and ocean current conditions, as well as the watershed for all fresh water flows into the contributing area. The WSS should evaluate the possible changes in sources of contamination due to known or potential changes in growth, development or industry within the watershed boundaries

The WSS should also include a full characterization of the source water quality. The source water characterization should begin with the implementation of monitoring for coliform and pathogens in the vicinity of the planned intake. Additionally, full chemical monitoring of the source water should be initiated. Identification of toxins associated with algae blooms that may be seasonally present around the intake should be conducted. A compilation of the watershed water quality data gathered by other agencies for the Monterey Bay should be included in the evaluation. The characterization should include special monitoring to identify any impacts from major storm events.

It is recommended that one year of water quality data be collected in support of the WSS to ensure that all seasonal flow conditions affecting the source water quality are evaluated. A plan for conducting the WSS and source water characterization should be provided to the Department for review and comment prior to implementation.

2. Demonstration of pathogen removal capability of proposed reverse osmosis membranes.

Under the SWTR, the RO treatment is deemed to be an alternative technology. As such, the City will need to demonstrate its effectiveness to remove pathogens as required under the California Code of Regulations, Title 22, Section 64653(f), and in

conformance with the requirements of the federal Long Term 1 Enhanced Surface Water Treatment Rule.

3. Demonstration of the treatment unit processes through a pilot study.

This demonstration must be able to show that the treatment will comply with the SWTR turbidity performance requirements and reliably provide water meeting drinking water standards. Compliance with the Interim Enhanced SWTR as well as the Long Term 1 SWTR must be evaluated. Typically, a variety of pre-treatment options are evaluated in this pilot study, in addition to different RO membranes and disinfection processes. The various options for disinfection treatment should consider chemical transport and storage, options for onsite generation of ozone, and clearwell capacity requirements. An evaluation of disinfection by-product formation issues, depending on the type of disinfection treatment to be provided, should be included to ensure compliance with the Stage 2 Disinfection By-Products Regulation. The pilot study protocol and schedule should be submitted for review and approval prior to conducting the study.

4. Submittal and approval of plans and specifications for all facilities related to the desalination treatment, including distribution system storage and piping.

Preliminary plans must be reviewed and approved prior to developing final plans.

5. CDHS DDWEM Water Treatment Committee review and concurrence of desalination proposal.

6. Submittal of a permit application with engineering report for construction and operation of a desalination treatment plant.

7. Distribution system water quality evaluation.

The impact of multiple sources of water in the distribution system should be addressed and the possible resulting water quality problems should be evaluated to ensure that distribution water quality problems do not develop as a result of the commingling of the various water qualities from different sources of water. Mitigation strategies should be developed for implementation.

8. Demonstration of Technical, Managerial and Financial (TMF) Capacity.

It is recommended that all proponents of desalination treatment plants demonstrate adequate TMF Capacity in accordance with the Department's TMF Capacity Assessment for New Public Water Systems. This is a requirement where a new public water system or owner is involved (if, for example, Monterey County Water Resources were to become the owner of a desalination facility, or for the Sand City desalination plant, where Sand City is to become a new public water system). It is also recommended that all other existing water systems demonstrate that they have the TMF capacity for the operation and management of the desalination facilities. Guidance for the Department's TMF Capacity requirements are provided on the Drinking Water Program website at:

<http://www.dhs.ca.gov/ps/ddwem/technical/dwp/trmf/TMFCapAssessFrmNewCommPWS.PDF>



MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

August 31, 2004

Betsy S. Lichti, P.E.
District Engineer, Monterey District
Drinking Water Field Operations Branch
State Department of Health Services
1 Lower Ragsdale, Building 1, Suite 120
Monterey, CA 993940-5741

RE: COORDINATION ON EVALUATION OF WATER SUPPLY PROPOSALS

Dear Ms. Lichti:

Thank you for your letter dated August 16, 2004, including the draft summary of the State Department of Health Services (DHS) desalination review process. The summary will be very helpful as the Monterey Peninsula Water Management District (MPWMD) is currently developing a matrix of federal, state, regional and local regulatory processes associated with desalination and other water supply options.

The MPWMD is very interested in collaborating with your agency on oversight of local water systems for which there is overlapping jurisdiction. You may know that we already work closely with the Monterey County Department of Health, Environmental Health, on water distribution systems. We very much appreciate your the offer to provide copies of correspondence regarding the systems listed in your letter.

I believe a meeting between our staffs would be fruitful. My Executive Assistant, Arlene Tavani, will contact you regarding mutually convenient meeting dates in the near future. Her number is 658-5652; my direct line is 658-5650 for future reference. On behalf of MPWMD staff, I look forward to meeting you to discuss these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read "D.A. Berger".

David A. Berger
General Manager

Cc: Arlene Tavani
Henrietta Stern

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

August 20, 2004

The Honorable Alvin Edwards, Chair
Monterey Peninsula Water Management District
5 Harris Court, Building G
Post Office Box 85
Monterey, CA 93942

Re: Water Credit Transfers

Dear Chair Edwards:

Thank you for your letter regarding water credit transfers. This reply letter is on behalf of The Open Monterey Project.

A special workshop on water credit transfer policies has been set by the District for August 26, at which time the District envisions efforts to develop a "consensus" for a proposed policy position on water transfers. On behalf of my client, I urge you to keep in mind that no action -- including the adoption of a policy -- may be taken by the District to facilitate, ease, permit, or encourage water credit transfers without full compliance with the law BEFORE such actions are taken.

Credible and substantial evidence in the District's possession shows that water credit transfer programs increase cumulative water usage, either immediately or over time. The District knows this and the evidence shows it. The last time the District tried to facilitate water transfers without first complying with the California Environmental Quality Act, the Superior Court struck down the District's action at considerable financial cost to the District.

It is my client's position that the District cannot approve a policy or enact a water credit transfer program without first complying with CEQA, including the requirements that the District order, review, and certify a legally sufficient environmental impact report. Compliance with the law cannot be bargained away or negotiated, and there is no legal way to reach a consensus BEFORE the impacts have been identified, qualified, and quantified under CEQA.

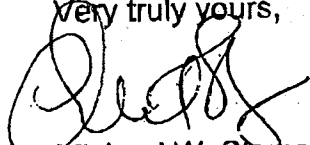
Simply stated, the District has to know the environmental impacts BEFORE the District can decide whether to adopt a water transfer policy or permit any water credit transfers. Otherwise, the District is creating "paper" water -- water that exists only on paper in a bureaucratic file -- and ignoring the impacts on the riparian habitat, the River, the aquifers, and the environment. Under the circumstances, my client respectfully declines the invitation to participate in the upcoming August 26 meeting.

The Honorable Alvin Edwards, Chair
August 20, 2004
Page Two

I understand that the District has decided to reserve three seats for my clients and me at the August 26 meeting. On behalf of my clients, this letter advises you that you may release those seats to the general public if the District decides to go forward with the meeting.

Thank you for your professional courtesy. If I can be of any assistance, please feel free to give me a call.

Very truly yours,



Michael W. Stamp



LAW OFFICES

RICHARD H. ROSENTHAL
A PROFESSIONAL CORPORATION

27880 DORRIS DRIVE, SUITE 110, CARMEL, CA 93923
P.O. BOX 1021, CARMEL VALLEY, CA 93924
(831) 625-5193
FAX (831) 625-0470
3648L23

23 August, 2004

The Honorable Alvin Edwards, Chair
Monterey Peninsula Water Management District
5 Harris Court, Building G
Post Office Box 85
Monterey, CA 93942

VIA FACSIMILE and U.S. Mail
644-9560

Re: Water Credit Transfers

Dear Chair Edwards:

Thank you for inviting Mr. Leeper and Save Our Peninsula Committee to Thursday's meeting. Unfortunately, Mr. Leeper's schedule prohibits his attendance.

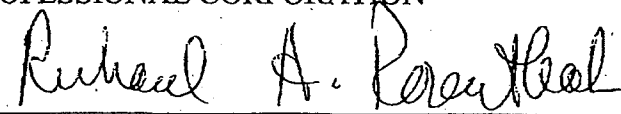
Regarding any proposed policy positions that are discussed, I urge you to keep in mind the terms of the settlement in the *Save Our Peninsula Committee, et al. vs. County of Monterey (Robles del Rio)* matter, Case Number M 51217. In the settlement of that case Monterey County agreed to undertake a stand-alone environmental impact report prior to approving any development that relied upon a water saving mechanism as its source of water. The County agreed that water saving mechanisms may result in significant environmental impacts that must be assessed, analyzed and mitigated prior to their use. It is my understanding that the County has not started the environmental impact report.

It is my clients' position that the district cannot approve a policy or permit water credit transfers without the preparation and certification of a legally adequate environmental impact report. This may be an opportunity for the water district and the County to undertake an environmental impact report on water saving mechanisms including water credit transfers.

If you have any questions or would further like to discuss the matter, please feel free to call.

Sincerely,

LAW OFFICES RICHARD H. ROSENTHAL
A PROFESSIONAL CORPORATION

BY: 
RICHARD H. ROSENTHAL

RHR/cd
cc: Clients

FOR U.S. MAIL DELIVERY: P.O. BOX 1021, CARMEL VALLEY, CA 93924
FOR EXPRESS MAIL DELIVERY: 27880 DORRIS DRIVE, SUITE 110, CARMEL, CA 93923

Arlene Tavani

From: Steve Bilson [stevebilson@rewater.com]
Sent: Tuesday, August 24, 2004 2:49 PM
To: Arlene Tavani
Subject: Tonight's Hearing

TO BE ENTERED INTO THE RECORD OF THE
MONTEREY PENINSULAR WATER DISTRICT'S
AUGUST 29, 2004 PUBLIC HEARING ON DESALINATION

Your area is desperate for water only because water districts have been negligent in conservation. This negligence is manifested in the following ways - .

Water districts refuse to offer incentives for residential water reuse. After a decade of study, these privately-owned systems were legalized in California in 1994 when the California Department of Water Resources and Department of Health Services co-wrote the 14-page state code, Appendix G of the California Plumbing Code. These small on-site systems reduce demand by 35% -- more than all other conservation methods combined -- by reusing residential shower, tub, bathroom sink, and laundry water for irrigation, while reducing wastewater discharges 50%, while eliminating irrigation run-off pollution entirely.

In California, the State Water Resources Control Board (SWRCB) eventually found these systems so cost effective they made them eligible for State Revolving Fund loans. The bigger the system, the greater the savings due to economy of scale. Water districts offer incentives for low-flow shower heads and toilets, and talk about how over 50% of all water is used outdoors, yet they do absolutely nothing to promote the single largest conservation method known.

Water districts fail to promote drip irrigation. Drip irrigation has been around for generations now. Countless studies show that drip irrigation is 30 percent to 60 percent more efficient than sprinklers, yet almost all new landscapes use sprinklers for irrigation. The Irrigation Industry Association reports that only 4 percent of irrigation products sold are drip-related. Yet all we get from any of the water districts is lip service about conservation.

Water districts fail to support the use of less turf. Turf is by far the biggest consumer of water in any landscape. Yet most new homes are surrounded by turf, and water districts essentially encourage it by not discouraging it, despite state laws limiting the amount of turf.

Water districts fail to support rain gauges. Irrigation is not needed on a rainy day. Inexpensive gauges can be attached to virtually any irrigation control system to prohibit irrigation while raining. Yet, they have no incentives for the use of rain gauges.

Water districts fail to support the use of reclaimed water. Billions of dollars have been spent on reclamation in California and most of the water is dumped into the ocean despite the water district's mandate under the state water code to require its use. For decades now, thousands of additional ornamental landscapes are irrigated each year on the coast with pricey imported fresh water or water stolen from the environment.

Water districts fail to create an arid landscape irrigation ordinance. The only legal standard for single-family landscape irrigation in California is what is imposed on signatories of the California Urban Water Conservation Council's Memorandum of Understanding. However, Northern California has

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substantially different irrigation requirements than Southern California. Therefore, nothing in the memorandum requires conservation at single-family landscapes. A residential landscaping ordinance could slash dependence on importing precious farm water and building costly new water supplies. Rather than promote conservation, the water districts plan to spend hundreds of millions of taxpayer and ratepayer dollars to create desalination, which costs over twice as much as residential reuse, according to the SWRCB.

Desalination has not even been proven cost effective on a large scale anywhere in the world. If all conservation methods were issued proportionate incentives, you would find enough water to satisfy necessary growth without burdening the population with the outrageous price of desalination.

Sincerely,

Stephen Wm. Bilson
Chairman and CEO
ReWater Systems, Inc.
Cell (619) 322-0141



**DEL MONTE FOREST
PROPERTY OWNERS**
A NON-PROFIT CALIFORNIA CORPORATION

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MPWMD

24 August 2004

Alvin Edwards, Chair
Monterey Peninsula Water Management District
PO Box 85
Monterey, CA 93942-0085

Dear Mr. Edwards,

The Board of the Del Monte Forest Property Owners, the elected representatives of an organization of approximately 1500 member properties, is in receipt of a copy of a letter to you from an individual owning property in the Del Monte Forest, Mr. Dale – a non-member. We have considered his letter and find it contains many errors regarding Phase II of the CAWD/PBCSD Water Reclamation Project and the enabling Ordinance 109.

First, the contention that Pebble Beach Company is somehow manipulating the price of its entitlement water to engage in "water profiteering" is at odds with the facts that have been consistently presented to the Del Monte Forest Property Owners, the Pebble Beach Community Services District, the Carmel Area Wastewater District, the Independent Recycled Water Users Group, and the MPWMD for the many months Ordinance 109 was under discussion. It is worth noting that, to our knowledge, Mr. Dale was not present with these organizations when the discussions took place. Our representative has appeared before your Board repeatedly in support of Phase II of the Project.

Not only was there never a commitment to any particular price on the sale of their entitlement water, but the MPWMD specifically excluded price from its deliberations and the language of Ordinance 109. As we recall, the major issues for the MPWMD were that the Phase II Project be funded to completion and that all proceeds from the sale of entitlement water be contributed to Phase II of the Project. Both of those objectives are met by the Ordinance and its planned implementation.

Second, from the outset, the amount of water discussed in public meetings to be used from the entitlement, to fund Phase II of the Project, has been approximately 100 to 110 acre feet, an amount corresponding to initial estimates of interest to property owners in the Del Monte Forest. The number 175 AF was actually imposed by the MPWMD, not the Company, as an upper limit on the amount of water rights the Company would be permitted to sell. As we recall, the MPWMD imposed this limit for reasons related to the environmental review process and there has been no suggestion that such amount would actually be sold.

Third, the letter implies that the sale of water rights will be withheld from some willing buyers to raise the price for others. In fact, no one foresees that requests for water rights will be for more than the amount necessary to finance the Phase II Project: about 110 to 120 AF. This estimate has not changed in the last several years, although the estimated costs of construction have increased by almost 40%.¹

¹ The original estimate of \$16 million has escalated to \$22 million. The actual cost will be even higher since PBC has advanced over \$1 million to the Project to date through CAWD and PBCSD.

Participating property owners cannot be forced to buy more water rights than they want, or to participate at all, so the price (per AF) has had to rise to meet the total cost. If the interest in participation is more than has been estimated, Ordinance 109 authorizes the sale of more entitlement water to meet the needs of property owners: any "excess revenues" thus generated would be applied to other Project-related costs. However, if the interest is sufficiently less than estimated, the Phase II Project would then be under-funded and Pebble Beach Company would have to contribute additional funding over and above water sales revenues to complete the Phase II Project.²

Fourth, use of the term "profiteering" when no profit is involved is inappropriate. Quite the contrary, all the money raised will go to the expenses of the publicly-owned and operated Project. The water rights to be sold now belong to the Company, so the sale is, in effect, a *donation* from the Company to the public agencies. To assert that the Company's remaining water rights are "profit" is not credible: the Company simply retains what it already owns, granted to them in return for their guarantee of the financing for the first \$34 million phase of the Project.

Fifth, we believe that it is not "audacity" to recognize that the cost of these water rights, at any price within the constraints of Ordinance 109, is a small percentage of the value of property in Pebble Beach. It is, without a doubt, a very high price for water compared to most historical prices, but it is reasonably based on the cost of the Phase II Project, not supply and demand³. It is an unfortunate and galling fact of life that this is the only option sanctioned by the government by which Forest property owners (in the Coastal Zone) can get water for their legal lots.

Sixth, the final statement regarding the possibility of additional encumbrance on Ordinance 109 is perhaps the most troubling notion of the letter. A minimum sale requirement higher than the actual interest from willing buyers or imposition of a price cap lower than that necessary to raise sufficient money for the Project would simply bring the Project to a halt⁴. The result would be no potable water for existing legal lots, no additional recycled water for anyone, and continued use of potable water where recycled water could be used. This consequence is clearly to the direct detriment of the majority of property owners in the Del Monte Forest who we represent and who have expressed support for the Project: likewise for the golf course owners in the Forest, both Company and independent, and for the entire community as a result of the loss of environmental benefits to the Carmel River.

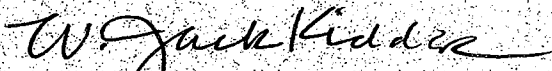
The Board of the Del Monte Forest Property Owners is convinced the Recycled Water Project is enormously beneficial to the entire community and continues its support. We find no credible arguments in Mr. Dale's letter to alter Phase II of the Project or its enabling Ordinance 109. We ask that your Board continue to stand behind the passage of Ordinance 109 and support the completion of the agreements necessary to bring Phase II of the Recycled Water Project to fruition.

² PBC has stated the price will be fixed when the commitments are made. Once PBC gives its financial commitment to build Phase II, they assume the risk of shortfalls from further cost escalation, but the Project would retain any unforeseen excess funds over initial costs to cover long term expenses.

³ Robles del Rio water was sold in a free market context for up to twice the price mentioned in the letter.

⁴ Limits other than those described would constitute no change to Ordinance 109. Passage of the limits described would be tantamount to repealing the ordinance.

Sincerely,



Jack Kidder, President
Del Monte Forest Property Owners

cc: Mr. Denver Dale
Mr. Ted Hunter, CR-PB

Mr. Richard Andrews, PBCSD
Mr. Ray von Dohren, CAWD
Mr. Gary Hornbuckle, MPCC
Mr. Paul Porter, NCGA, Poppy Hills
Mr. Mark Stilwell, Pebble Beach Co.
Mr. Jim Vorhes, Cypress Point Club

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MPWMD

August 31, 2004

Larry Foy, Director
Monterey Peninsula Water Management District
5 Harris Court, Bldg. G
Monterey, CA. 93942-0085

Dear Mr. Foy,

I was pleased to see the article in the Pine Cone regarding the board's efforts to reconsider the regulatory framework for new wells. The water distribution permit process for single connection wells is very burdensome and probably does not produce overall area wide help with the water use issues our area is facing. I am currently processing an application for a single connection system which is probably a good example of the problems with the current regulations.

My application involves two adjacent parcels in the Miramonte area of Carmel Valley. The properties are outside of the 1000' distance to the Carmel River. My application involves a new well for a 2.5 acre parcel. This parcel contains mature vineyards and no house. The existing vineyard has been irrigated for approximately 15 years from a well located on the adjacent parcel. Both the vineyard parcel and the adjacent parcel are owned by Mr. and Mrs. Evans. I have drilled a new well on the vineyard parcel in order to separate the two parcels dependence on a single well. The new well will provide irrigation to the vineyard and water for future house construction. The old well will no longer irrigate the vineyard and only continue irrigation around Mr. Evans residence (the residence uses a Cal Am meter). Since the vineyard has been existing for many years I don't believe I will be significantly increasing the production of water from our underlying aquifer.

Under the current regulations my new well requires a Water Distribution Permit. I have proceeded with meeting all of the application criteria including performing a 72 hour pump test. My pump test produced above the threshold criteria while only drawing the well down approximately 40%. The well recovery was very rapid, reaching full recovery in 1/2 of the allotted period.

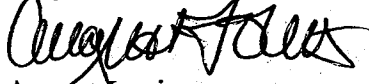
In my situation, even without a significant increase in production (primarily switching production from one well to another) and a positive pumping test, my application has not sailed through. I have been surprised with requests for time drawdown and distance drawdown calculations and further well capacity information. This has surprised me when from my non-technical analysis it seems very clear that there will be no significant impacts. My new well is located further away from all surrounding neighbors' wells with

only one exception. In this one exception the neighboring well is 400' deeper than my well. It seems clear that my application does not present significant impacts. However, I am facing additional professional analysis and district staff review before proceeding.

I apologize for describing my situation in such detail. However, I believe it is a good example of the problem with the current regulations. For many years single connection wells have been exempt from the water distribution permit process. I urge you to return to this exempt approach. The districts efforts would be far better spent on the multi-connection systems. These systems carry a much larger impact. The single connection wells carry a much smaller impact and returning to the exempt status eases the burden of enforcing different permit approaches to similar well installations.

I appreciate your time in reviewing this letter and trust my comments are helpful.

Very Truly Yours



August Louis
President