

EXHIBIT 14-B

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

ORDER FOLLOWING HEARING

SUBJECT: BARDIS WATER DISTRIBUTION SYSTEM (MPWMD I.D. #20020426BAR)

The Public Hearing on the Bardis Water Distribution System (WDS) was held on November 19, 2004 at 1:00 PM in the Monterey Peninsula Water Management District (MPWMD) Conference Room.

Present at the Hearing were: Andrew M. Bell, MPWMD District Engineer, Hearing Officer
David C. Laredo, De Lay & Laredo, General Counsel to MPWMD
Henrietta Stern, MPWMD Project Manager
Tom Lindberg, MPWMD Associate Hydrologist
Christine Gianascol Kemp, representing Christo Bardis, Applicant

Documents presented the Hearing are as follows:

- Application for Creation of Water Distribution System Permit, Bardis Well, dated April 20, 2004
- MPWMD staff note for the Public Hearing, including background information, Draft Findings of Approval, and Draft Conditions of Approval for the Bardis WDS
- Letter dated November 19, 2004 from Christine Gianascol Kemp to Andrew Bell, with three enclosures: (1) MPWMD worksheet titled "Water Use Factors for Land Use Reporting Method;" (2) Stipulation and Order Re Water Usage on Remainder Parcel, Save Our Carmel River v. County of Monterey, et al. (Case No. M 43343) filed June 7, 2002; and (3) letter dated September 20, 2004 from Harold E. Grice, Grice Engineering and Geology Inc., to Henrietta Stern, MPWMD
- Report by Grice Engineering Inc., November 1994, "Hydrology Study and Nitrate Loading Assessment for the Mills College Property Minor Subdivision at Carmel Valley and Schulte Road, Carmel Valley, Monterey County, California, APN 169-181-43"
- Letter dated November 18, 2004 from Carole January Erickson to MPWMD (received by MPWMD via facsimile on November 19, 2004)

Henrietta Stern presented the staff note on the permit application, including a review of Draft Findings and Conditions of Approval, CEQA compliance, and other exhibits. Christine Gianascol Kemp presented testimony on behalf of the applicant. In her testimony and in her November 19,

2004 letter, Ms. Kemp requested that a change be made in Condition 3 of the Draft Conditions of Approval. The proposed condition set the system capacity limit at 14.91 acre-feet per year (AFY) divided as follows: 0.50 AFY for potable residential use, including landscape irrigation, and 14.41 AFY for non-potable agricultural irrigation. Ms. Kemp requested that the 0.50 AFY portion be for interior residential uses only, and that outside uses be included in the agricultural irrigation portion. As an alternative, Ms. Kemp requested that the residential portion be changed to allow 1.00 AFY for the residence and surrounding landscaping, and that 13.91 AFY be allocated to agricultural uses. Ms. Kemp referred to Harold E. Grice's September 20, 2004 letter, which states, in part, as follows:

"In accordance with our report [the November 1994 Grice Engineering Inc. report], the projected water use per residence is just under 0.5 acre feet per year based on occupancy of 3.17 persons per residence. This use is for the residence proper and does not include additional outside acreage use. Additional acreage is often placed in orchards, vineyards or other associated uses."

ORDER

I have reviewed and considered the documents and testimony presented during the November 19, 2004 Public Hearing on the Bardis WDS, and additional information related to the Bardis WDS in MPWMD's files. Based on my review and consideration, I have made the following determinations:

1. The creation of the Bardis WDS is exempt under CEQA. A Notice of Exemption shall be prepared by MPWMD and filed with Monterey County.
2. The Findings of Approval for Creation of the Bardis WDS are adopted as revised during the Hearing.
3. Condition 3 of Permit #S04-03 shall be revised as follows:

"The system capacity (water production) limit for the Bardis WDS is hereby set at **14.910 acre-feet per year (AFY) divided as follows: ~~0.50~~ 0.444 AFY for residential uses, including landscape irrigation, and ~~14.41~~ 14.466 AFY for agricultural irrigation.** The expansion capacity (connection) limit is set at no more than **one connection** in order to serve uses allowed by Monterey County zoning regulations and permitted by County authorities on the subject parcel. No municipal unit (jurisdiction) allocation is associated with this permit."

4. Conditions of Approval 1 through 20 for Creation of the Bardis WDS, as revised during the Hearing and herein, are approved.

RATIONALE REGARDING SYSTEM CAPACITY LIMIT

The draft condition presented in the staff note for the hearing proposed a division of the system capacity to be 0.50 AFY for residential uses, including landscape irrigation, and 14.41 AFY for agricultural irrigation. Ms. Kemp requested changes that would either allow 0.50 AFY for interior residential use and that landscape irrigation be included in the agricultural irrigation portion, or that 1.00 AFY be designated for residential including landscape irrigation. However, the controlling condition for determining water use amounts for non-agricultural use of water is found in the Stipulation and Order re: Water Usage on Remainder Parcel, *Save Our Carmel River v. County of Monterey, et al.* (Case No. M 43343) filed June 7, 2002. Condition 3.G of the Stipulation and Order is as follows:

“G. In the event that any application is filed with the County for non-agricultural development of the remainder, water consumption associated with such non-agricultural development shall be evaluated and conditioned consistent with applicable water demand analyses contained in the November 1994 report of Grice Engineering, prepared in connection with the Mills College Subdivision.”

The November 1994 Grice Engineering report was prepared for Michael R. Berube in connection with the Mills College Minor Subdivision. The basis for the calculation of residential water uses on the property is shown in the Geology and Hydrology section of the report, under the heading “Water Use Parameters.” Pertinent portions of this section are as follows:

“The following assumptions applied to this hydrology-water balance and nitrate loading study for the Mills College Minor Subdivision:

1. The population of each residence is assumed to be 3.17 persons.
2. Daily water use is assumed to be 125 gallons per person
3. The average daily domestic water usage of 396 gallons per day per residence is considered equally divided between the septic system and landscape irrigation. ...”

Grice assumptions 1 and 2 lead to the following annual per-residence use:

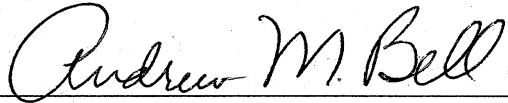
$$\frac{3.17 \text{ persons} \times 125 \text{ gallons per person per day} \times 365 \text{ days per year}}{325,851 \text{ gallons per acre-foot}} = 0.444 \text{ acre-foot per year}$$

Grice assumption 3 indicates that half this amount is considered interior use, and half is for landscape irrigation.

It is recognized that Mr. Grice’s September 20, 2004 letter states that the intent of the residential use projection is for “... the residence proper and does not include additional outside acreage use.” However, the November 1994 report is clear in stating that the assumption is for total residential use, including landscape irrigation.

CONCLUSION

Based on the foregoing, the Bardis Water Distribution System shall be created in accordance with the Final Findings of Approval and the revised Conditions of Approval, and Permit #S04-03 shall be issued.



Andrew M. Bell, District Engineer
Hearing Officer

November 24, 2004

Date

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