

EXHIBIT 3

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

**FINAL
FINDINGS of APPROVAL**

**CONSIDER APPLICATION TO CREATE
FLORES WATER DISTRIBUTION SYSTEM (Well #1)**

**Service area: APN 103-071-002
Application #20110401FLO, Permit #S12-03-L2**

Adopted by MPWMD District Engineer on July 12, 2012

*Unless noted otherwise, all cited documents and materials are available for review at the
MPWMD Office, 5 Harris Court, Building G, Monterey (Ryan Ranch).*

It is hereby found and determined as follows:

1. **FINDING:** **Andres Joseph Flores** is identified as the owner of property at 564 Monhollan Road, Carmel, in unincorporated Monterey County (Jack's Peak area). The property is comprised of one Parcel (APN 103-071-002) totaling approximately 5.7 acres, as revised by a lot line adjustment approved by Monterey County on June 30, 2011 (Record of Survey filed November 10, 2011 in Vol 31 Sur Pg 97). The subject Well ("Well #1) was previously located on the adjoining Parcel, APN 103-071-019, prior to the lot line adjustment. It is now located on Parcel APN 103-171-002 for service to that Parcel.

EVIDENCE: Application #20110401FLO, site map and application materials dated April 1, 2011 including Grant Deed recorded by the Monterey County Recorder on March 17, 2010 (Document #2010015101). County Recorder Documents #2012018675 through #2012018678 dated March 28, 2012 for property ownership associated with the lot line adjustment, as corrected by Document 2012023272 dated April 19, 2012. Supplemental application information provided in MPWMD public hearing materials on September 19, 2011 (Item 17) and November 21, 2011 (Item 16), including all exhibits and presentation materials on those dates.

2. **FINDING:** The Parcel is within the area served by California American Water (CAW), and one residence currently receives CAW service.

EVIDENCE: Permit application as specified in Finding #1; map of CAW service area.

3. FINDING: A Water Well Construction Permit for the subject Well was issued by the Monterey County Health Department (MCHD) on December 23, 1998. The Well was constructed in 1999 (date obscured). It was tested for 72 hours during “dry season” conditions starting on October 12, 2010. It is noted that the Flores Well #1 was tested at the same time as Piseni Well #2 (a separate WDS Permit application) because the Wells were located on the same Parcel (prior to the lot line adjustment) at the time of the test.

EVIDENCE: MCHD Water Well Construction Permit #98-318; State Department of Water Resources Well Completion Report #527042; *72-Hour Constant Rate Well Pumping, Aquifer Recovery Test and Pumping Impact Assessment for Flores/Piseni Well #1*, prepared by Bierman Hydrogeologic, dated March 23, 2011 (referred to herein as “*Hydrogeologic Assessment*”); *Review of Well Source and Pumping Impact Assessment Report for Flores/Piseni Well #1*, prepared by Pueblo Water Resources, dated May 23, 2011 (referred to as “*Technical Review*”).

4. FINDING: Applicant has applied for a Permit to create the Flores Water Distribution System (WDS) for a Well to provide potable and irrigation water for domestic, landscape and vineyard uses on the Parcel specified in Finding #1. This includes one Single-Family Dwelling (primary residence) with pool, caretaker unit (with kitchen), 0.5-acre vineyard and other landscaping.

EVIDENCE: Permit application materials as specified in Finding #1.

5. FINDING: Based on District staff analysis of the data provided in the application, 1.65 acre-feet per year (AFY) has been set as the annual production limit for the subject WDS to meet the water needs for the Parcel specified in Finding #1, including conveyance and treatment losses.

EVIDENCE: Permit application materials as specified in Finding #1. *Hydrogeologic Assessment* and *Technical Review* as specified in Finding #3; MPWMD Permit #S12-03-L2, Condition of Approval #3.

6. FINDING: The application to create the Flores WDS, along with supporting materials, is in accordance with District Rules 21 and 22.

EVIDENCE: Permit application materials as specified in Finding #1. Specific documents from hearings include: June 24, 2011 letter from Darby Fuerst (MPWMD) to Beech, Flores and Piseni Trust; July 20, 2011 “complete application” letter from Darby Fuerst to Flores, which attaches July 15, 2011 letter from Aaron Bierman to MPWMD documenting coordination with neighbors. Minutes of MPWMD

Board meeting of November 21, 2011, where the application was deemed to be “complete.”

Required Findings (MPWMD Rule 22-B)

7. FINDING: The approval of the Permit would not cause unnecessary duplication of water service with any existing system. The subject property is within the areas served by CAW, and a residence is currently served by CAW. However, CAW water is unavailable for new or intensified use because service by CAW is constrained due to existing limitations imposed by State Water Resources Control Board (SWRCB), the Monterey County Superior Court, and the California Public Utilities Commission (CPUC). The property also appears to benefit from overlying water rights to percolating groundwater. The proposed system will be limited to two Connections for the uses described in Finding #4. [Rule 22-B-1]

EVIDENCE: Map of CAW service area; MPWMD Permit #S12-03-L2, Conditions of Approval #1 through #4. SWRCB Order 95-10 dated July 1995; SWRCB Cease and Desist Order WRO 2009-0060 dated October 2009; Seaside Basin Adjudication Final Decision issued by Superior Court dated March 2006; CPUC Decision 11-03-048 dated March 24, 2011.

8. FINDING: The approval of the Permit would not result in water importation or exportation to or from the District, respectively. The referenced Parcel is located wholly within the MPWMD. [Rule 22-B-2]

EVIDENCE: MPWMD boundary location maps.

9. FINDING: Approval of the application would not result in significant adverse impacts to “Sensitive Environmental Receptors” (SER) as defined by MPWMD Rule 11, including the Carmel Valley Alluvial Aquifer (CVAA). Four Wells are located within 1,000 feet of the subject Well, and would not be adversely affected. [Rule 22-B-3 and Rule 22-C-5]

EVIDENCE: *Hydrogeologic Assessment and Technical Review* as specified in Finding #3; MPWMD Permit #S12-03-L2, Condition of Approval #3; MPWMD Notice of Exemption citing CEQA Guidelines Section 15303 dated July 12, 2012. Supplemental application information provided in MPWMD public hearing materials on compliance with MPWMD procedures, Well testing, monitoring and coordination with neighbors on September 19, 2011 (Item 17) and November 21, 2011 (Item 16), including exhibits and presentation materials on those dates. Specific documents from hearings include: June 24, 2011 letter from Darby Fuerst (MPWMD) to Beech, Flores and Pisenti Trust; July 20, 2011 “complete application” letter from Darby Fuerst to Flores, which attaches July 15, 2011 letter from Aaron Bierman to MPWMD documenting coordination with neighbors; Bierman Well monitoring

graph for June 14 through July 6, 2011; timeline table for Beech Appeal prepared by MPWMD for 11/21/2011 hearing; August 2, 2011 letter from Darby Fuerst to Beech re: Well testing questions; November 18, 2011 letter from Bierman to MPWMD Board, plus attached October 26, 2011 letters from MCHD.

10. FINDING: The application adequately identifies the claim of right (overlying use) for the source of water supply (percolating groundwater) and provides supporting verification (deed to property). [Rule 22-B-4]

EVIDENCE: Permit application as specified in Finding #1; Grant Deeds showing ownership of property by applicant.

11. FINDING: The application demonstrates existence of a long-term reliable source of water supply for the proposed use as described in Finding #4. The MPWMD *Technical Review* concludes that the supply should be adequate to provide water during peak and extended dry season periods with the production limit of 1.65 AFY. The MCHD has also determined that supply is adequate to meet the Parcel needs. [Rule 22-B-5]

The long-term sustainable capacity of Wells completed in fractured bedrock collectively referred to by MPWMD as the “Miscellaneous formations” is dependent on a variety of factors that cannot be fully evaluated through analysis of relatively short duration (i.e., 72 hours or less) pumping tests. The movement and long-term availability of groundwater in these materials are controlled by the occurrence, connectedness, and distribution of fractures. The distribution and connectedness of fractures to sources of recharge are essentially random, and the volume of groundwater in storage in these systems is often limited. The low volumes of groundwater in storage can limit long-term supply particularly during period of deficient recharge. The implications of these factors should, therefore, be taken into consideration when planning long-term use of Wells that are completed in fractured bedrock settings.

It should be noted that MCHD Well construction Permits include a generic disclaimer regarding the long-term sustainability of Wells completed in hard rock formations.

EVIDENCE: *Hydrogeologic Assessment* and *Technical Review* specified in Finding #3. Additional documentation specified in Findings #6 and #9, including letter from MCHD to Flores dated October 26, 2011.

12. FINDING: The source of water supply is non-alluvial fractured bedrock (consolidated rock) of the area collectively referred to by MPWMD as the “Miscellaneous formations.” The cumulative effects of issuance of

a Permit for the subject property would not be expected to result in significant adverse impacts to the source of supply or the species and habitats dependent on the source of supply. These impacts have been evaluated by the District, including calculations of extended (6 months) dry season pumping cycles. The distance to neighboring Wells and SER, and the estimated production from the subject Well were also considered. [Rule 22-B-6]

EVIDENCE: *Hydrogeologic Assessment* and *Technical Review* specified in Finding #3; additional documentation specified in Findings #6 and #9; MPWMD Permit #S12-03-L2, Condition of Approval #3.

13. FINDING: The source of supply for the subject Parcel is not derived from the Carmel Valley Alluvial Aquifer or the Monterey Peninsula Water Resource System. The source of supply is not within the jurisdiction of the SWRCB, and has not been determined to be tributary to the source of supply for any other system. The source of supply is from fractured bedrock in the area collectively referred to as the “Miscellaneous formations” (percolating groundwater). [Rule 22-B-7]

EVIDENCE: MPWMD map showing boundaries of project site and jurisdiction of SWRCB superimposed on Monterey County Parcels; *Hydrogeologic Assessment* and *Technical Review* specified in Finding #3.

14. FINDING: MPWMD Permit #S12-03-L2 does not allow a permanent intertie to any other water distribution system. The proposed WDS will be limited to a physically and legally separate system and may not be connected to the CAW system. Temporary water service could be provided by trucked-in water in a non-fire emergency such as system failure. A separate standby CAW meter solely for emergency fire sprinklers in the ceiling of the applicable structures, pursuant to local fire codes, is allowed because the Parcel is within the CAW service area. [Rule 22-B-8]

EVIDENCE: Map of CAW service area available at District office; MPWMD Permit #S12-03-L2, Condition of Approval #13. MPWMD Rules and Regulations.

15. FINDING: A back-flow protection device to prevent contamination of the CAW system is required, if deemed necessary by CAW. [Rule 22-B-9]

EVIDENCE: Map of CAW service area; MPWMD Permit #S12-03-L2, Condition of Approval #14.

Minimum Standards for Granting a Permit (MPWMD Rule 22-C)

16. FINDING: The application adequately identifies the Responsible Party as the

owner specified in Finding #1. [Rule 22-C-1]

17. EVIDENCE: Permit application and Grant Deed specified in Finding #1.
FINDING: The application meets the definition of a “Single-Parcel Connection System” and will provide water for domestic supply to one Parcel; it is therefore exempt from complying with California Title 22 water quality standards as administered by MCHD. The applicant may wish to coordinate with MCHD regarding disinfection of the Well and pipelines as the water tested positive for total coliform bacteria. [Rule 22-C-2]

EVIDENCE: Permit application as specified in Finding #1. MPWMD Permit #S12-03-L2, Conditions of Approval #1, #2, #3, and #15; California Administrative Code, Title 22; *Technical Review* specified in Finding #3.

18. FINDING: The application identifies the location of the source of supply for water distribution system (water source and Well site). [Rule 22-C-3]

EVIDENCE: Permit application as specified in Finding #1, including location map. MPWMD Permit #S12-03-L2, Condition of Approval #4.

19. FINDING: The approval of the application would not create an overdraft or increase an existing overdraft of a groundwater basin. No overdraft has been declared for the fractured bedrock (consolidated rock) in the area collectively referred to by MPWMD as the “Miscellaneous formations.” [Rule 22-C-4]

EVIDENCE: MPWMD hydrologic monitoring data and annual reports; MPWMD Permit #S12-03-L2, Condition of Approval #3.

20. FINDING: The approval of the application would not adversely affect the ability of existing systems to provide water to users due to conditions of approval that limit future water use to a reasonable and acceptable amount. Overlying water rights holders are also co-equal to other overlying users. [Rule 22-C-5]

EVIDENCE: MPWMD hydrologic monitoring data and annual reports; *Hydrogeologic Assessment* and *Technical Review* specified in Finding #3; additional Well testing and monitoring information specified in Findings #6 and #9; MPWMD Permit #S12-03-L2, Condition of Approval #3. California Water Code.

Compliance with California Environmental Quality Act (CEQA)

21. FINDING: In the review of this application, MPWMD has followed those guidelines adopted by the State of California and published in the

California Administrative Code, Title 14, Section 15000 *et seq.* Specifically, the MPWMD as a lead agency under CEQA for this action determined that this action is Categorically Exempt under Section 15303, New Construction and Conversion of Small Structures. This exemption applies because the WDS would be appurtenant to allowed uses on an existing, approved residential Parcel approved by Monterey County consistent with zoning regulations, which are the result of CEQA review.

EVIDENCE: CEQA and CEQA Guidelines, Section 15303. MPWMD Notice of Exemption for Flores WDS dated July 12, 2012.

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