

Henrietta Stern

From: Dave Stoldt
Sent: Monday, July 30, 2012 1:14 PM
To: dave@laredolaw.net
Cc: Henrietta Stern
Subject: FW: Flores and Pisenti WDS Staff Determinations signed July 12, 2012

A slightly later and marginally different email from Kristi.

Dave S

-----Original Message-----

From: Kristi Markey [mailto:kristimarkey@gmail.com]
Sent: Tuesday, July 24, 2012 3:30 PM
To: Dave Stoldt
Subject: Flores and Pisenti WDS Staff Determinations signed July 12, 2012

Two significant issues are: notice to neighboring property owner and opportunity to have his well tested, and the conclusion that there is sufficient water to support the well, that conclusion being based on the use of a formula rather than actual testing data. There may be other issues as well, and I would not want to limit our review based on my description.

The process which led to the approval of this well contained some flaws, and that creates the possibility that a well that is not supportable may be permitted, and that well may also has an adverse affect on a neighbor's well. This situation creates a health and safety issues (if homes do not have reliable water) as well as potential legal issues for the District if we are sued for adverse results from permitting the well.

I believe this is sufficient to support a review of the matter by the Board based on our Rules.

On 7/13/12, Dave Stoldt <dstoldt@mpwmd.net> wrote:

- > Hi Kristi,
- >
- > While normally appeals would come from the public under District Rule
- > 70, within 21 days of the appealable decision, Rule 71 covers Board
- > member authority and includes the following:
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- > A. Any member of the Board of Directors may refer an appealable
- > subordinate decision to the Board of Directors for review on the basis
- > that the determination affects, impacts, or deals with matters of
- > general policy of the District, or may have a significant
- > environmental, economic, or physical impact on a District facility or
- > service.
- >
- > B. The Board of Directors may elect to take no action, making the
- > subordinate decision final, or, upon the request of any Board member,

> the Chair shall set the matter for hearing as an appeal, which shall
> be heard and determined in the same manner as other appeals taken
> pursuant to Rule 70.
>
> C. Upon hearing the appeal, the Board of Directors shall consider the
> record and such additional evidence as may be offered and shall find
> whether, in its opinion, error was made. The Board of Directors may
> affirm, reverse, or modify the action appealed as it deems just and
> equitable, and may exercise all rights of any other officer or
> commission. The Board of Directors shall transmit a copy of its decision
to the Applicant and the appellant.

>
> I have only summarized Rule 71 above. The actual rule detail requires
> that the general procedures of Rule 70 shall apply, and those state:
> "Such appeal shall specify in writing the grounds upon which it is
> taken, and shall reference the provision of these Rules and
> Regulations which have been violated."

>
> Hence, it would be useful to have you provide a summary of the basis
> for the appeal, allegations of errors made per paragraph c, and
> desired outcome you seek from the Board as a whole.

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> Once that is received, we have 30 days to set a hearing. But I am
> assuming we should set that hearing for the August board meeting. The
> well testing window closes in November.

>
> Best regards,

>
> Dave

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> -----Original Message-----

> From: Kristi Markey [<mailto:kristimarkey@gmail.com>]

> Sent: Friday, July 13, 2012 11:20 AM

> To: Sara Reyes; Dave Stoldt

> Subject: Re: Flores and Pisenti WDS Staff Determinations signed July
> 12,
> 2012

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> I am not sure whether my wording below adequately exercises the
> process under District rules whereby a Director can request that the
> full Board review an administrative staff determination, so to ensure
> that I am covered, I am sending this second email. I believe staff
> don't consider this an "appeal" since it comes from the Board, but
> rather a request that the full Board consider hearing the matter.

>
> On Fri, Jul 13, 2012 at 11:16 AM, Kristi Markey
> <kristimarkey@gmail.com>

> wrote:

>> I am appealing this determination.

>>
>> On Fri, Jul 13, 2012 at 10:38 AM, Sara Reyes <Sara@mpwmd.net> wrote:
>>> Directors,

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>>>
>>> For your information only - no action required.
>>>
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>>>
>>> As you requested, the District is notifying you that the staff
>>> determination for Flores and Pisenti was signed by the District
>>> Engineer on July 12, 2012 (see attached).
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>>> Please contact Henrietta Stern at henri@mpwmd.net or 658-5621 with
>>> any questions.
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>>> Thank you,
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>>> Sara Reyes
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>>> Office Services Supervisor
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>>> 5 Harris Court, Bldg. G
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>>> Monterey, CA 93942-0085
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>>> Tel. 831-658-5610
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