The background of the slide is a photograph of a wooden roof structure under construction, showing various beams and trusses against a clear blue sky. The structure is made of light-colored wood and is partially completed.

ITEM 14. CONSIDER APPEAL OF STAFF DETERMINATION TO APPROVE PERMIT #S12-03-L2 FOR FLORES (WELL #1) WATER DISTRIBUTION SYSTEM

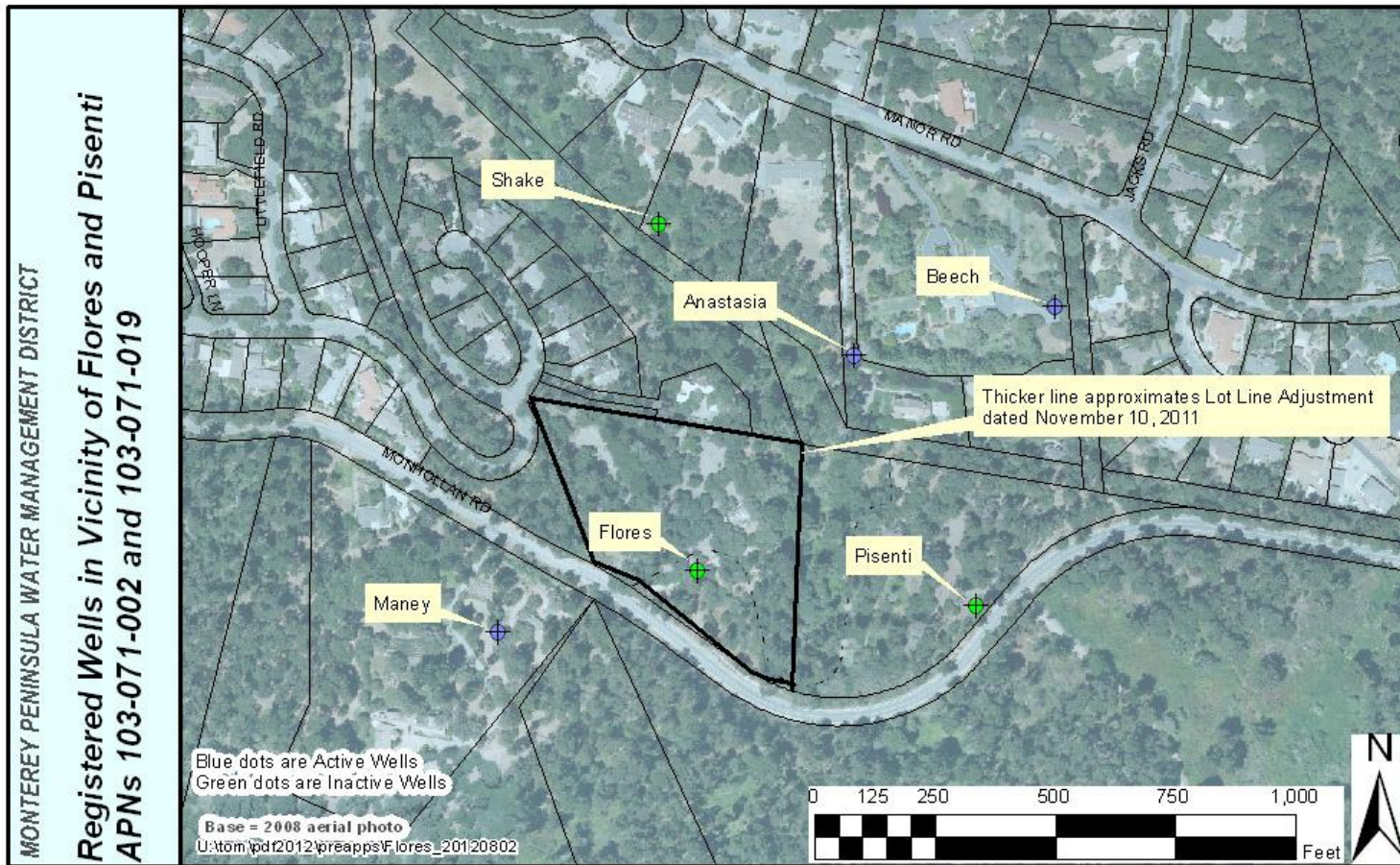
Meeting Date: August 20, 2012

Contacts: David Stoldt, Joe Oliver, Henrietta Stern

Flores WDS Overview

- November 21, 2011 action by Board found Flores and Pimenti Water Distribution System (WDS) applications to be complete, which allowed permit processing to continue.
- District Engineer authorized Flores Permit #S12-03-L2 and Pimenti Permit #S12-04-L2 on July 12, 2012, which have been appealed. [*Exhibits 14-A, B, C*]
- Key Issue #1: Should District Engineer's determination to approve Flores (Well #1) WDS Permit be upheld as written?
- Key issue #2: Should relief requested by the Appellant be granted (well re-testing and monitoring)? [*Exhibit 14-C*]
- Key Issue #3: Should \$750 appeals fee be waived?

Project Area






Topics Not Part of Hearing

- Issues previously addressed by Board at November 21, 2011 hearing re: adequate notice, following procedures, impact of well testing on Beech well, and complete application.
- Concerns about hydrogeologic issues in other parts of District or County.
- Whether MPWMD, County or state rules and/or procedures are adequate, or should be changed.



Issues in Director's Referral

- 
- Does lack of monitoring of Beech Well result in inadequate evidence to support a finding of no adverse impact to other wells to enable a WDS Permit to be issued?
 - Is there adequate evidence to support a finding of reliable supply to enable a WDS Permit to be issued?

Assertions in Beech Appeal

- Failure to monitor impact on neighboring wells.
- Failure to comply with MPWMD documentation requirements for drawdown and recovery.
- Denial of due process during the original appeal process in 2011 [*not germane to this hearing*].
- Lack of evidence to support Findings of Approval #6 (District rules followed), #9 (lack of impact to neighboring wells), #11 (reliable supply shown) and #12 (no cumulative adverse impacts to source of supply).

Requested Relief in Appeal

1. Fully re-test Flores and Piseni Wells for supply adequacy and impact to neighboring wells pursuant to MPWMD procedures.
2. Test Flores and Piseni Wells concurrently in October.
3. Demonstrate 95% recovery in 6 days with actual measurements, not estimates.
4. Determine well capacity by actual pumping rates, not estimates.

New Information

- MPWMD staff technical response to assertions in appeal (8/6/2012). Appellant does not have a complete understanding of hydrogeology; certain requests to change MPWMD procedures do not reflect standard hydrogeologic practice. [*Exh. 14-E, pg. 189*]
- Bierman letter (8/6/2012) attaching 2011 information plus new 2012 well monitoring logs showing lack of hydrogeologic connectivity between Flores/Pisenti and Beech Wells [*Exh. 14-F, pg. 191*]



Q1: Should Well Be Re-tested Prior to Permit Approval?

A. Is re-testing necessary to show lack of impact to Beech Well; is available evidence adequate? Evidence is adequate, especially well monitoring data from 2011 and 2012 (4 weeks total) showing lack of connectivity between wells.

B. Were data properly collected during testing to show adequate supply? Yes, data were collected during a 72-hr pumping test per District procedures and guidance given the site-specific hydrogeologic situation.

Q1: Should Well Be Re-tested? (continued)

C. Do testing results show adequate supply or is re-testing needed? Results show reliable supply. Assertions and calculations by Appellant are inaccurate, based on an incomplete understanding of hydrogeology, as explained in Exhibit 14-E.

D. If re-testing is needed, should MPWMD procedures be altered as requested? No, the suggested changes are not supported by standard hydrogeologic practice. Even if changes were suggested, rules cannot be applied retroactively.



Q2. Should Appeal Fee Be Waived?

- Policy decision for the Board.
- Rule 70 gives Board discretion to rebate fee in whole or in part if the appeal “has provided significant benefit to the public and/or the environment, or in usual matters.”

Previous Board Conclusions on November 21, 2011

- Available evidence indicated lack of impact to the Beech WDS in Oct. 2010. Monitoring of Wells #1, #2 during use of Beech Well in 2011 showed no hydrogeologic connectivity.
- MPWMD procedures were properly followed in 2010 to assess reliable supply. Procedures allow Water Resources Division Manager to provide guidance for specific situations.
- MPWMD procedure to provide notice of monitoring option for offsite wells was not properly followed in 2010. This was corrected in 2011, as feasible (permission not granted to monitor Beech Well).



Board Options on WDS Permit

- 1: Approve Permit #S12-03-L2 as written.
- 2: Amend Permit #S12-03-L2 (e.g., add new Condition of Approval)
- 3: Continue consideration until specified milestone is reached (e.g., well re-testing)
- 4: Deny Permit (reverse staff action)
- Flores and Pisenti WDS are separate items, but Board action should be the same for each.

Gen. Mgr. Recommendations

- Board should select Option 1, 2, 3 or 4
- Option 1 is best choice; evidence in the record supports Findings of Approval; lack of evidence to justify denial.
- Option 2 if Board feels there still is substantive uncertainty about impact to neighboring wells; confirm via limited re-test. Concern: \$10,000 cost for each applicant (\$20,000+ total).
- Options 3 or 4 are not recommended.
- Instruct staff to provide Findings in support of Board choice for adoption as a Consent Item next month.
- Make a determination on whether to waive the \$750 appeal fee per Rule 70 (no staff recommendation).

For More Information

Staff reports, ordinances and presentation materials can be found on the District's website at:

www.mpwmd.net

PowerPoint presentations will be posted on the website the day after the meeting



Option 2 – Special Condition

- WDS Permit is issued but no Water Permit given until a re-test confirms lack of impact to Beech Well. No test is needed to confirm supply.
- Test Flores and Pisenti Wells together in September-November per District procedures as interpreted by Water Resources Manager. This includes Ordinance 150 notice requirements.
- Lack of permission to monitor Beech Well waives the requirement for a re-test.