



June 12, 2020

Mr. John Tilley

Re: MPWMD Water Supply Charge

Dear Mr. Tilley:

Thank you for your letter dated June 5, 2020 regarding the Monterey Peninsula Water Management District (MPWMD) Water Supply Charge. This response is to clarify there are no **“reserves built via collection of the Water Supply Charge”** as stated in your letter.

From July 1, 2012 through March 31, 2020 – the period over which the Water Supply Charge has been collected – expenditures for water supply related activities have actually exceeded collected revenues from the Water Supply Charge, as shown below:

Water Supply Projects	\$27,884,581
Personnel related to Water Supply	9,385,235
Services & Supplies	3,839,037
Equipment/Capital	319,549
Debt Service on ASR Loan	<u>1,466,636</u>
Total Expended on Water Supply	\$42,895,038
Water Supply Charge Collected	<u>25,681,393</u>
Net Undercollected	\$17,213,645
Reimbursements and Grants	<u>13,606,926</u>
Net Subsidy to Water Supply	\$3,606,719

The figures above are only those assigned to our water supply function, hence do not include water conservation, permitting, or environmental stewardship activities. Election expenses have also not been included. The net subsidy to water supply has been covered by MPWMD’s allocation of property tax and other revenues. One can clearly see there are no reserves built up by the Water Supply Charge.

The proposed FY2020-21 budget does set aside \$500,000 in a sinking fund for paying off the Mechanics Bank loan, but the Water Supply Charge will primarily be used to pay ongoing capital costs of the Aquifer Storage and Recovery project, the Pure Water Monterey operating reserve, and a potential third deep well. It is likely the collections will be insufficient to meet all MPWMD water supply needs next year and those activities will again be subsidized by our other revenues.

Sincerely,

A handwritten signature in blue ink that reads "David Stoldt".

David Stoldt
General Manager

Monterey Peninsula Water Management District

From: [John Tilley](#)
To: [Sara Reyes](#); [Arlene Tavani](#); [Birt Johnson](#); [Dave Stoldt](#); [Dave Stoldt](#); [David Laredo](#); [Heidi Quinn](#); [Jason Campbell](#); [John Bottomley](#); [Karen Paull](#); [Patie McCracken](#); [Paul Bruno](#); [scott@mcarr.com](#); [Suresh Prasad](#); [Susan Schiavone](#)
Subject: Fw: Ordinance 152 Reserves, the Water Supply Charge and The Mechanics Bank Loan
Date: Tuesday, July 28, 2020 5:23:55 AM
Attachments: [Rabo Bank Term Sheet 2012.pdf](#)
[Legal Opinion on Ord 152 Reserves February 6, 2019.pdf](#)
[April 6, 2012 Use of Funds Item 12D.pdf](#)
[Board Presentation Justifying Ordinance 152 April 16, 2012.pdf](#)

Good Morning Fellow Ordinance 152 Panel Members,

Please find an e-mail I sent to the MPWMD Board and staff recently regarding Ordinance 152. Studying the origin of the ordinance was informative for me and I wanted to share the result with you as it directly relates to our responsibilities as Panel members. I look forward to our meeting later today and wish you all well.

With regards,

John Tilley

----- Forwarded Message -----

From: John Tilley <the5amswim@yahoo.com>
To: alvinedwards420@gmail.com <alvinedwards420@gmail.com>; georgetriley@gmail.com <georgetriley@gmail.com>; water@mollyevans.org <water@mollyevans.org>; jcbarchfaia@att.net <jcbarchfaia@att.net>; gqhwd1000@gmail.com <gqhwd1000@gmail.com>; dpotter@ci.carmel.ca.us <dpotter@ci.carmel.ca.us>; district5@co.monterey.ca.us <district5@co.monterey.ca.us>; David <dstoldt@mpwmd.net>; Arlene Tavani <arlene@mpwmd.net>
Sent: Friday, June 5, 2020, 02:55:59 PM PDT
Subject: Ordinance 152 Reserves, the Water Supply Charge and The Mechanics Bank Loan

June 5, 2020

The Board Members of the Monterey Peninsula Water District

Mr. David Stoldt, General Manager of the Monterey Peninsula Water District

Dear Board Members and Mr. Stoldt,

I am writing you as a member of the Ordinance 152 Citizen's Oversight Panel to express my profound concern regarding the Mechanic's Bank loan maturing in 2023 and any attempt to shift the reserves built via collection of the Water Supply Charge to purposes clearly not the intent of Ordinance 152.

Ordinance 152 was adopted on June 27, 2012 with board members Brower, Markey, Byrne, Lewis and Pendergrass voting for its approval. The Ordinance was passed in response to a brief suspension of the User Fee and the expressed intent to "replace and augment" that funding stream.

Ordinance 152 clearly states revenues are to be used to fund "actual costs to provide water supply services" and "Supply charge proceeds will be expended only to fund water supply services and for no

other purpose". Section Ten establishes a date of December 31, 2017 as a cut-off for funded projects to be "identified and determined by the Board of Directors to have been underway". As a point of reference, Measure J was passed in November of 2018.

Furthermore, the General Manager's report from April 16, 2012 (attached) stated that these funds are clearly intended to support the work needed to fulfill the promise of the supply portfolio including Aquifer Storage and Recovery, Pure Water Monterey Phase One and the CalAm desalination plant. The full meeting package is found [here](#). Item 12 D (attached) states "*Hence, the fees are being raised for water supply activities. Section 3 of the Ordinance specifically limits the purposes to the GWR and ASR projects and purposes that confer benefit and/or service to existing main Cal-Am water users to ensure sufficient water is available for present beneficial use or uses, including water supply management, water demand management, water augmentation program expenses such as planning for, acquiring and/or reserving augmented water supply capacity, including engineering, hydrologic, legal, geologic, financial, and property acquisition*".

On December 11th of 2012 the MPWMD Board passed a resolution approved by members Byrne, Lehman, Lewis, Markey and Pendergrass to "approve obtaining a loan from Rabobank . . . for reimbursement of the Aquifer Storage Recovery costs". The need for the loan was premised on "the District has not been able to collect the User Fee". In summary, the User Fee temporarily went away, the Water Supply Charge was not yet providing the revenue needed and expenses for Aquifer Storage and Recovery (ASR) were mounting. The Rabobank loan was obtained and used to build-out ASR while the Water Supply Charge was expected to be the source or repayment of the loan.

The Rabobank term sheet (attached) emphasizes the direct connection between the loan, the Water Supply Charge and ASR. Here are two pertinent excerpts from the Rabobank term sheet showing the use of funds was ASR and repayment would come from the WSC:

Use and Investment of Proceeds: Bond proceeds will be used to finance infrastructure owned by the District, reimburse the District for costs incurred in connection with infrastructure, pay off an existing line of credit, fund the Debt Service Reserve Fund, and fund cost of issuance.

Nature of Obligation and Repayment: Debt will be secured by a pledge of the District's water supply charge.

As a member of the Ordinance 152 Citizen's Oversight Panel I ask that the purpose and intent of Ordinance 152 be honored. There is currently a three million dollar cash reserve in the Ordinance 152 fund and a 3 million dollar debt to be paid. The reserve was built via collection of the Water Supply Charge. The loan was taken to build the infrastructure needed to supply water. It is time for the reserves collected to be used to pay for the infrastructure work already accomplished. While staff secured a legal opinion (attached) promoting the idea that funds from Ordinance 152 *could* be repurposed, doing so raises serious ethical, legal and financial risks for the District.

It has always been the expectation of the public and the ratepayers that the District sunset the Water Supply Charge and not double collect fees. I urge the Board to commit the reserves to paying off the Rabobank loan as intended and refrain from the unethical temptation of misusing those reserves to pay for Measure J. The Water Supply Charge was created to pay for building the Water Supply Portfolio and should be used solely for that purpose as it was intended. Now is the time to do so as there are no pre-payment penalties on the Rabobank/Mechanics Bank loan.

I urge the board to act responsibly and transparently. Diverting Water Supply Charge funds outside of the intended purpose is not only of questionable ethical standards, but clearly puts the District at serious legal and financial risks.

Respectfully yours,

John Tilley

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