



**Administrative Hearing of the
Monterey Peninsula Water Management District
April 18, 2024 10:00 AM**

MPWMD Conference Room – 5 Harris Ct., Bldg. G, Monterey CA

Call to Order

Item for Consideration

- 1. Consider Amendment of the “6C Scarlett” Water Distribution System Permit to add one Connection and Set System Limits (MPWMD Permit #S24-02-L3-AMD1)**

Action: The Monterey Peninsula Water Management District staff hearing officer, Frances M. Farina, will consider Application #WDS-202403086CS, submitted on March 8, 2024, by applicant Cindi Scarlett.

Adjourn

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ITEM: ADMINISTRATIVE HEARING

1. CONSIDER AMENDMENT OF THE “6C SCARLETT WATER DISTRIBUTION SYSTEM” TO ADD ONE (1) CONNECTION AND SET SYSTEM LIMITS (MPWMD PERMIT #S24-02-L3-AMD1)

Meeting Date: April 18, 2024

Prepared By: Gabriela Bravo

SUMMARY: The MPWMD staff hearing officer will consider Application #WDS-202403086CS (**Exhibit A**) submitted on March 8, 2024, by Applicant, Ms. Cindi Scarlett. The proposed project is to add one (1) Connection on a pre-existing Water Distribution System (WDS) located in the Carmel Valley Alluvial Aquifer (CVAA). The proposed amendment would: 1) set the Expansion Capacity Limit (number of Connections) at one (1) Connection; 2) set the Production Limit at 0.16 Acre-Feet Annually (AFA). This action necessitates Conditions of Approval for the 6C Scarlett WDS.

For non-controversial WDS matters, District Rule 22 allows the General Manager, in consultation with the Board Chairperson, to direct that a hearing be scheduled before the General Manager (or his/her designee) as the sole hearing officer. Notice of the staff action shall be provided to the public via the “Appealable Decisions” section of the District website. The staff determination may be appealed to the MPWMD Board pursuant to Rule 70, “Appeals.” This hearing was noticed for at least ten days around the project Site as well as the District’s office window.

DISCUSSION: The following paragraphs describe the proposed Findings and Conditions of Approval as required by MPWMD Rule 22.

Findings of Approval: Findings of Approval for Application #WDS-202403086CS (**Exhibit B**) are based on evidence provided in the Application materials, including supporting documents on file at the District office. With the Findings of Approval, District staff believes a Finding can be made that the application meets the criteria and minimum standards for approval set by the District Rules 22-B and C. Specifically, this action should “not create an Overdraft or increase an existing Overdraft” (Rule 22-C-4).

Conditions of Approval: Permit S24-02-L3-AMD1 results in Conditions of Approval for the 6C Scarlett WDS shown as (**Exhibit C**). The key substantive changes for the 6C Scarlett WDS are to add one (1) Connection and set System Limits: The Expansion Capacity Limit (number of Connections) will be set at one (1) Connection. The Production Limit is set at 0.16 Acre-Feet Annually.

CEQA Compliance: 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. and finds that the setting of System Limits as determined by MPWMD Rule 40-A is exempt from CEQA under Section 15308, Actions by Regulatory Agencies for the Protection of the Environment, as published in the 2024 CEQA Guidelines. Class 8 consists of

actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

RECOMMENDATIONS: District staff recommends that the staff hearing officer take the following actions:

1. Adopt the MPWMD Findings of Approval for Application #WDS-202403086CS for the 6C Scarlett WDS Amendment.
2. Amend 6C Scarlett WDS (Permit #S24-02-L3-AMD1) to add one (1) Connection: The Expansion Capacity Limit (number of Connections) will be set at one (1) Connection. The Production Limit is set at 0.16 Acre-Feet Annually; Authorize issuance of MPWMD Permit #S24-02-L3-AMD1. This action will result in Conditions of Approval for the 6C Scarlett WDS.
3. Direct staff to file a Notice of Exemption with the County Clerk: This would be a Class 1 Categorical Exemption Actions by Regulatory Agencies for the Protection of the Environment pursuant to CEQA Guidelines Section 15308 (**Exhibit D**).

BACKGROUND: The 6C Scarlett Water Distribution System (Permitted System) is authorized by the Monterey Peninsula Water Management District (MPWMD or District). This Permit recognizes the System Limits for the Permitted System at 0.16 AFA, and the Expansion Capacity Limit set at one (1) Connection. The Parcel is in unincorporated Monterey County.

EXHIBITS

- 1-A** Application #202403086CS received March 8, 2024
- 1-B** MPWMD Draft Findings of Approval dated April 2024
- 1-C** MPWMD Draft Conditions of Approval for 6C Scarlett WDS, April 2024
- 1-D** Notice of Exemption



EXHIBIT 1-A
RECEIVED

MAR 08 2024

MPWMD

**APPLICATION for a PERMIT to CREATE or AMEND a
 WATER DISTRIBUTION SYSTEM or MOBILE WDS**

For detailed guidance, please visit the District website at:
<http://www.mpwmd.net/regulations/wells-water-systems/water-distribution-systems/>
 (click on "2014 Implementation Guidelines").
 For staff assistance, contact 831-658-5601 or skister@mpwmd.net or gabby@mpwmd.net

Form received on 3/8/24 by SKC
 Fee Received: \$1,200 (Level 1 or 2); ~~✗~~ \$3,000 (Level 3)
 ID# WDS- 015

Please complete the table below (attach extra sheets as needed):

#	QUESTIONS	FILL IN ANSWERS BELOW
1	System Name	<u>LC Scarlett</u>
2	Assessor's Parcel ## (list all)	If multiple parcel, identify APN for well/facility location and APN of parcels receiving water from WDS or Mobile WDS. <u>169-111-035</u>
3	Physical Address or Location	<u>LC Scarlett Rd. CV</u>
4	Name of Applicant	<u>Cindi Scarlett</u>
5	Mailing Address (Street or PO)	<u>LC Scarlett</u>
6	City, State, Zip	<u>CV CA 93924</u>
7	Phone/fax/email:	<u>831-402-1800</u>
8	Agent (if applicable)	(i.e., person who may receive paperwork on behalf of applicant/owner)
9	Agent mailing address	
10	Agent City, State, Zip	
11	Agent phone/fax/email	
12	Hydrogeologist (if applicable)	(e.g., licensed professional who has conducted well testing and evaluation)
13	Hydro mailing address	
14	Hydro City, State, Zip	
15	Hydro phone/fax/email	
16	Is this an amendment to an existing WDS?	<u>YES</u> or NO. If yes, identify previous MPWMD permit #, if any. # _____ Describe planned changes.
17	Is this a Mobile WDS?	YES OR NO. If yes, go to Row 42 <u>NO</u>
18	Is this a water Well?	YES OR NO. If no, go to Row 21.

SUBMITTED BY APPLICANT



MONTEREY PENINSULA
WATER
MANAGEMENT DISTRICT

19	MCEHB² Permit # and issuance date	(One for each well)
20	DWR Well Completion Report # and date	(One for each well)
21	Within MPWRS³ ?	YES or NO. Consult with District staff if unsure; see definition in footnote.
22	>1,000 ft. MPWRS?	YES or NO. Consult with District staff if unsure. See Section 4.0 of 2014 Implementation Guidelines.
23	≤1,000 ft. MPWRS?	YES or NO. Consult with District staff if unsure. Staff will assess well log re: potential impacts; additional testing may be required. See Section 4.2 of 2014 Implementation Guidelines.
24	Seaside Basin source?	YES or NO. If yes, Adjudication documentation and/or approval from Watermaster are required. See Section 5.0 of 2014 Implementation Guidelines.
25	CV Alluvium source?	YES or NO. If yes, water rights documentation is required. See Section 6.0 of 2014 Implementation Guidelines. District staff will confirm if alluvial.
26	Fractured rock spring or seep?	YES or NO. If yes, state if onsite or offsite use, and if potable (drinking water) or non-potable use. See Section 7.0 of 2014 Implementation Guidelines.
27	River/tributary direct diversion?	YES or NO. If yes, water rights documentation is required. See Section 7.0 of 2014 Implementation Guidelines. Describe system.
28	Dam/reservoir?	YES or NO. If yes, water rights documentation and EIR is required. See Section 7.0 of 2014 Implementation Guidelines.
29	Desal plant?	YES or NO. If yes, describe facilities, annual production and recipients. EIR required. See Section 7.0 of 2014 Implementation Guidelines.
30	Reclamation plant?	YES or NO. If yes, describe facilities, annual production and recipients. EIR required. See Section 7.0 of 2014 Implementation Guidelines.
31	Rainwater harvest + offsite delivery?	YES or NO. If yes, describe. See Section 7.0 of 2014 Implementation Guidelines.
32	Other water systems?	YES or NO. Describe. See Section 7.0 of 2014 Implementation Guidelines.
33	Estimated production	Unit is acre-feet per year (AFY). See Section 2.9 of 2014 Implementation Guidelines.
34	Total acreage served	(Break out acreage of each parcel served)
35	Type of water use?	(e.g., drinking water, irrigation only)
36	Type of land use?	(e.g., residential, commercial, agriculture)
37	New subdivision?	YES or NO. CEQA document from lead agency is required.
38	In CAW⁴ service area?	YES or NO.
39	Active CAW service?	What is currently served by CAW on the property (e.g. home or business)?
40	What is Zoning?	
41	Environmental information	Describe CEQA documentation and Lead Agency, if applicable.

SUBMITTED BY APPLICANT

² MCEHB= Monterey County Environmental Health Bureau

³ MPWRS= Monterey Peninsula Water Resource System (i.e., Carmel Valley Alluvial Aquifer, Carmel River/tributaries, and Seaside Basin)

⁴ CAW = California American Water Company

MONTEREY PENINSULA

 WATER
 MANAGEMENT DISTRICT

42	Is Mobile WDS source within MPWMD?	YES or NO. If yes, describe source and location. See Rows 21 - 32 for possibilities.
43	Is water source outside MPWMD?	YES or NO. If yes, describe source and location.
44	Source agency and approval	If outside MPWMD, identify source agency with authority. Attach written documentation that the source water may be exported to serve applicant. <i>Mo County Health</i>
45	Describe intended use (long-term)	Mobile WDS may only be non-potable (e.g., irrigation, pools only) unless an emergency. <i>ADU</i>
46	# Parcels served?	Use Request for Exemption form if service is to 3 or fewer parcels from a source out side MPWMD.
47	Emergency drinking water service?	YES or NO. If yes, describe situation.
48	Other relevant information or unique considerations?	Refer to Question #. Attach explanatory sheets as needed.
ATTACHMENTS		
A1	Parcel Maps	
A2	MCEHB permit(s)	
A3	DWR Well log(s)	
A4	Well registration forms	
A5	Well meter sign-offs	
A6	Grant deed	
A7	Water rights docs.	
A8	Environmental docs.	
A9	Mobile WDS approval	
A10	Application fee (check)	
A11	Other	

SUBMITTED BY APPLICANT

This Application for a Permit must be signed by the person who is identified in a recorded Deed as the owner of the parcel on which the well or other water producing facility is located. If multiple owners, at least two must sign.

Under penalty of perjury, I verify that the above information is accurate to the best of my knowledge and understanding.

[Signature]

 Signature of Applicant/System Owner

3.8.24

 Date

Printed name of Applicant: *Cindy Scarlett*

 Signature of Applicant/System Owner

Printed name of Applicant: _____

 Date

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DRAFT

FINDINGS OF APPROVAL

Consider Amendment of the “6C Scarlett Water Distribution System” to add one (1) Connection and Set System Limits

Permittees: Teri Scarlett and Cynthia Scarlett

Permitted System: 6C Scarlett Water Distribution System

Assessor’s Parcel Number: 169-111-035-000

Application #: WDS-202403086CS, Permit #S24-02-L3-AMD1

Adopted by MPWMD Hearing Officer on April 18, 2024

Unless noted otherwise, all cited documents and materials will be available for review on the MPWMD website at <https://www.mpwmd.net/regulations/public-notice/> prior to and for 30 days following the administrative hearing.

It is hereby found and determined as follows:

1. **FINDING:** Teri Scarlett and Cynthia Scarlett (6C Scarlett) are the current Owners of a pre-existing Water Distribution System (WDS) located in the Carmel Valley Alluvial Aquifer (CVAA) that has historically provided agricultural irrigation water. The Parcel (APN: 169-111-035-000) consists of approximately 1.0 acre.

EVIDENCE: Application #202403086CS, submitted March 8, 2024, including Site map; Utility Services Source Capacity Test Report dated November 14, 2022; MPWMD records of annual water production and hydrogeologic maps showing boundaries of the Carmel Valley Alluvial Aquifer (CVAA) that include the 6C Scarlett Parcel.

2. **FINDING:** The Parcel is within the Service Area of California-American Water Company (CAW), and there is an active Connection serving one Single-Family Dwelling. The Parcel is in unincorporated Monterey County.

EVIDENCE: Permit application materials specified in Finding #1.

3. **FINDING:** The 6C Scarlett Parcel is riparian to and entirely overlies the CVAA.



- EVIDENCE: Permit application materials specified in Finding #1.
4. FINDING: The Monterey County Environmental Health Bureau (MCEHB) approved the Well in 2001 for irrigation use.
- EVIDENCE: Application #202403086CS specified in Finding #1, including MCEHB Water Well Permit #00-423 issued on January 30, 2001, and California Well Completion Report #716552 signed September 20, 2001.
5. FINDING: The Applicant has applied for an amendment to the WDS Permit to add one (1) Connection.
- EVIDENCE: Permit application materials specified in Finding #1; CEQA Guideline Section 15308; MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #1 through #4.
6. FINDING: The MPWMD recognizes historic agricultural pumping on the Parcel from the Well at an average of 0.22 AFA for the most recent three years (2021-2023). In compliance with Rule 40-A-4, Determination of System Capacity and Expansion Capacity Limits, the System Capacity/Production Limit shall be set at 0.16 AFA and the Expansion Capacity Limit shall be set at one (1) Connection.
- EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1, Condition of Approval #3.
7. FINDING: In compliance with Rule 40-A-4, Determination of System Capacity and Expansion Capacity Limits, the System Capacity (Production Limit) is determined by seventy-five percent (75%) of the existing Consumptive Use on the Site as adjusted for the new Project's Consumptive Use; the remaining 25% is for environmental benefits.
- EVIDENCE: Calculation of Consumptive Use and Environmental Set-Aside as calculated by Jonathan Lear, MPWMD Water Resources Manager, on March 13, 2024.
8. FINDING: The application for the 6C Scarlett WDS amendment, along with supporting materials, is in accordance with District Rule 21 and Rule 22.



EVIDENCE: Permit application materials specified in Finding #1; “Notice of Public Hearing” letter to Cindi Scarlett from MPWMD dated April 2, 2024; MPWMD Rules and Regulations.

Required Findings (MPWMD Rule 22-B)

9. FINDING: The approval of the Permit would not cause unnecessary duplication of Potable water service within any existing system. [Rule 22-B-1]

EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #1 through #4 and #13.

10. FINDING: The approval of the Permit would not result in water importation or exportation to or from the District, respectively. The Parcel is located wholly within the MPWMD and is in the Carmel Valley Alluvial Aquifer (CVAA). [Rule 22-B-2]

EVIDENCE: District boundary location maps and evidence of current riparian rights as reviewed and confirmed by District Counsel Frances M. Farina.

11. 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). [Rule 22-B-3]

EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1, Condition of Approval #13.

12. FINDING: The 6C Scarlett WDS has adequately identified riparian water rights as defined by the SWRCB in Order 95-10. [Rule 22-B-4]

EVIDENCE: Teri Scarlett and Cynthia Scarlett Grant Deed and Chain of Title Guarantee; June 19, 2023, Water Rights Analysis by Sheryl A. Fox, Attorney at Law, confirmed by MPWMD Counsel.

13. FINDING: The application confirms a long-term reliable supply as required by standard methodology adopted by the Monterey County Environmental Health Bureau (MCEHB). [Rule 22-B-5]



EVIDENCE: Permit application materials specified in Finding #1, including MCEHB Source Capacity Test Letter dated February 14, 2023.

14. FINDING: The Source of Supply for the 6C Scarlett Well is the Carmel Valley Alluvial Aquifer (CVAA). The cumulative effects of issuance of this WDS Permit Amendment do not result in significant adverse impacts to the Source of Supply or the species and habitats dependent on the Source of Supply due to the establishment of a System Capacity/Production Limit which reduces the annual allowed diversions. [Rule 22-B-6]

EVIDENCE: MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #1 through #4 and #13.

15. FINDING: The Source of Supply for the 6C Scarlett Well is derived from the Carmel Valley Alluvial Aquifer, which is a component of the Monterey Peninsula Water Resource System. While the source is shared by many, no additional impacts are anticipated due to reduced Production Limits. [Rule 22-B-7]

EVIDENCE: MPWMD maps showing boundaries of project area and jurisdiction of the SWRCB; Permit application materials specified in Finding #1; MPWMD hydrogeologic maps on file; MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #1 through #4, and #13.

16. FINDING: MPWMD Permit #S24-02-L3-AMD1 sets System Limits for the 6C Scarlett WDS. The MPWMD recognizes historic agricultural pumping from the Well located in the CVAA at an average of 0.22 AFA. [Rule 22-B-8]

EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #1 through #4 and #13.

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

17. FINDING: The application adequately identifies the Responsible Parties as Teri Scarlett and Cynthia Scarlett. [Rule 22-C-1]

EVIDENCE: Permit application materials specified in Finding #1.



18. FINDING: The application meets the definition of a “Single-Parcel Connection System,” as water will be provided by the existing Well for use on the same Parcel. Compliance with California Code of Regulations Title 22 water quality standards is the authority of the SWRCB Division of Drinking Water. [Rule 22-C-2]
- EVIDENCE: Permit application specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #1 through #4 and #12; California Code of Regulations, Title 22.
19. FINDING: The application identifies the location of the Source of Supply for the 6C Scarlett WDS as one existing Well in the Carmel Valley Alluvial Aquifer (CVAA) capable of producing a long-term reliable supply for the intended purposes. [Rule 22-C-3]
- EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #1 and #4.
20. FINDING: Approval of the application would not create an Overdraft or increase an existing Overdraft. The Carmel Valley Alluvial Aquifer has not been declared to be in Overdraft, but the SWRCB has determined it is over-appropriated during certain seasons. [Rule 22-C-4]
- EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1, Conditions of Approval #12 and #13.
21. 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 by MPWMD and other entities that limit future water use to a reasonable and acceptable amount. [Rule 22-C-5]
- EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #S24-02-L3-AMD1 Conditions of Approval #1 through #4, #7 through #14.



Compliance with California Environmental Quality Act (CEQA)

22. 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.* and finds that the setting of System Limits as determined by MPWMD Rule 40-A is exempt from CEQA under Section 15308, Actions by Regulatory Agencies for the Protection of the Environment.

EVIDENCE: Section 15308, Actions by Regulatory Agencies for Protection of the Environment, as published in the 2024 CEQA Guidelines. Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.



DRAFT

CONDITIONS OF APPROVAL

Consider Amendment of the “6C Scarlett Water Distribution System” to add one (1) Connection and set System Limits

Permittees: Teri Scarlett and Cynthia Scarlett

Permitted System: 6C Scarlett Water Distribution System

Assessor’s Parcel Number: 169-111-035-000

Application #WDS-202403086CS, Permit #S24-02-L3-AMD1

Adopted by MPWMD Administrative Hearing Officer on April 18, 2024

Permitted System Minimum Standards and Mandatory Conditions of Approval (Required by MPWMD Rules)

1. The 6C Scarlett Water Distribution System (Permitted System) is authorized by the Monterey Peninsula Water Management District (MPWMD or District) under Permit #S24-02-L3-AMD1 for water service to the Parcel located on Assessor’s Parcel Number (APN) 169-111-035-000. (The land referred to herein below is situated in the unincorporated County of Monterey, State of California and is described as follows: VOL 17 SUR MAPS PG 3 PAR C 1 AC, in the Office of the County Recorder of the County of Monterey, State of California. The property address is currently 6C Scarlett Road, Carmel Valley. The Service Area is shown in Attachment 1. This action is referred to herein as the “6C Scarlett WDS Amendment.” [Rule 22-D-1-a]
2. This Permit authorizes the Permitted System to provide water supply for an Accessory Dwelling Unit. A Single-Family Dwelling served by California-American Water Company (Cal-Am) by its Main California Water System (Main System) currently exists on the property.
3. The System Capacity (“Production Limit”) for the Permitted System is set at **0.16 Acre-Foot per year (AFY)**, and the Expansion Capacity Limit for this Permit is **one (1) Connection**. No municipal unit (Jurisdictional) Allocation is associated with this Permit. [Rule 22-D-1-b]
4. The Source of Supply for the Permitted System is one existing Well (Monterey County Health Department Water Well Permit #00-423 and California Department of Water Resources (DWR) Well Completion Report #716552) located on the property identified in



Condition #1 in the approximate location shown in **Attachment 1**. The Well extracts water from the Carmel Valley Alluvial Aquifer (CVAA). [Rule 22-C-3]

5. Precedent to use of this Permit, Permittees shall first obtain and comply with any required approval from the local Jurisdiction in which the property is located, as applicable. [Rule 22-D-3]
6. Permittees shall execute an Indemnification Agreement, (**Attachment 2**) which holds MPWMD harmless and promises to defend the MPWMD from any claims, demands, or expenses of any nature or kind arising from or in any way related to the District approval of the Permitted System or the adequacy of the system water supply. This Permit is not valid until the Indemnification Agreement is signed by both the Permittees and MPWMD. [Rule 22-D-1-d]
7. Permittees shall comply with District rules relating to water Well registration, metering, and annual reporting of production (MPWMD Regulation IV), including reporting the quantity of water produced from each Source of Supply. Other reporting requirements can be found in Special Condition 26. [Rule 22-D-1-e; Rule 22-D-2]
8. Permittees shall report production by the Water Meter Method (MPWMD Rule 56) for the Well designated in Condition #4. [Rule 22-D-1-e; Rule 22-D-2]
9. Within 60 days of approval of the Permit Amendment the District shall record a Notice and Deed Restriction to Provide Access to Water Use Data for the Parcel within the Permitted System.
10. Permittees shall comply with all MPWMD water efficiency regulations that pertain to Residential and landscape water use. Regulation XIV specifies maximum water use specifications for fixtures and appliances and requires installation of water efficient landscapes. Regulation XV contains the Monterey Peninsula Water Conservation and Rationing Plan, including mandatory prohibitions on Water Waste. Contact with the MPWMD Permit and Conservation Office is recommended during project planning. [Rule 22-D-1-f]
11. New Connections to the Permitted System may not be set until a Water Permit has been secured from MPWMD for the new Connection in accordance with MPWMD Regulation II. A Landscape Water Permit shall also be required pursuant to Regulation II. Capacity Fees shall be calculated based on the water demand estimates using the MPWMD's water demand methodology at the time of the application. [Rule 22-D-1-g]



12. Any Intensification, Expansion, or Change of Use of a User within the Permitted System shall require a new Water Permit pursuant to MPWMD Regulation II. [Rule 22-D-1-k]
13. Any modification, addition, or change to the Source of Supply, location of uses, any increase in the System Limits or expansion of the Service Area shall require an amended Water Distribution System Permit pursuant to MPWMD Regulation II. [Rule 22-E]
14. MPWMD shall not approve any Water Permit for a new or intensified Connection to the Cal-Am Main System due to the inability of the Permitted System to deliver adequate water quality or quantity to the Parcel identified in Condition 1, unless there is: (a) full compliance by Cal-Am with State Water Resources Control Board (SWRCB) Order 95-10 (as amended), (b) Cal-Am compliance with the March 2006 Final Decision of the Seaside Groundwater Basin Adjudication (as amended), and (c) water is available in the respective Jurisdiction's Allocation for release to the subject Parcel. (See also Condition 11) [Rule 22-C-2]
15. Permittees are not required by MPWMD to carry out specific mitigation measures to offset adverse environmental impacts so long as water production does not exceed the established System Capacity in any year. The System Capacity is determined by historical use with a 25 percent environmental set-aside in pre-project Consumptive Use as directed in MPWMD Rule 40-A-4. [Rule 22-D-1-i]
16. Permittees shall sign (and notarize) the Amended Permit accepting all conditions for the approval of the Permitted System. By signing the form, Permittees acknowledge understating and acceptance of these conditions as a binding part of the Final Amended Permit approval and agree to carry them out faithfully. [Rule 22-D-1-m]
17. Permittees shall disclose to any future owner, successors and assigns of the property described in Condition 1 the requirements for the Permitted System. Permittees shall advise MPWMD in a timely manner of any changes in system ownership, system name or other substantive changes to the system to facilitate accurate record-keeping. [Rule 22-D-2]
18. Construction tasks for facilities authorized in this Permit (e.g., Well, pipelines, storage tanks and water treatment) shall be initiated within one year from the date the Amended Permit is issued. **This Permit shall expire if no action is taken within that year.** Construction of permitted Water-Gathering Facilities shall be completed, and the Water Distribution System operation shall commence within two years from the date the Amended Permit is issued. Permittees may apply in writing to the MPWMD General



Manager for a 180-day extension to the project initiation deadline and /or the system operation deadline, to be approved at the discretion of the General Manager. More than one extension may be requested. [Rule 22-D-4]

19. Prior to MPWMD recordation of the Deed Restriction to Amend the Permit for this System, Permittees shall pay to the MPWMD the invoiced cost for MPWMD staff, attorney and consultant time spent to process the Permit after the application date. [Rule 22-D-1-1]
20. Permittees shall execute a Deed Restriction prepared by MPWMD regarding limitation on water use set forth in these conditions. Permittees shall pay all fees associated with preparation, review, and recording of the Deed Restriction. The Deed Restriction must be signed and notarized by the Permittees before the MPWMD has the document recorded by the Monterey County Recorder. Upon successful recordation, the Final Amended Permit from MPWMD may be transmitted to the Permittees. [Rule 22-D-1-n]
21. Upon notice to the 6C Scarlett WDS Owner or Operator in writing, e-mail or by telephone, reasonable access to the Site shall be given to MPWMD staff or its designated representative to inspect and document Water-Gathering Facilities and Water-Measuring Devices, obtain hydrogeologic data, and take readings from Water Measuring Devices. [Rule 22-D-1-o]
22. The Permit granted herein is subject to revocation in the event the Permittees do not fully comply with each condition set forth in this Permit. [Rule 22-D-1-p]
23. Precedent to use of this Permit, Permittees shall first obtain and comply with any required approval from the local Jurisdiction in which the property is located, as applicable. [Rule 22-D-3]

Other Conditions of Approval

24. Nothing in this Permit shall be construed to grant or confirm any water right.
25. This Permit does not authorize any act that results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). If a “take” will result from any act authorized under this Permit, the Permittees shall obtain authorization for an incidental take prior to construction or operation of the project. Permittees shall be responsible for meeting all requirements of the applicable Endangered



Species Act for the project authorized under this Permit.

Special Conditions for 6C Scarlett WDS

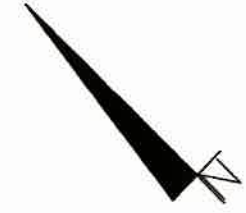
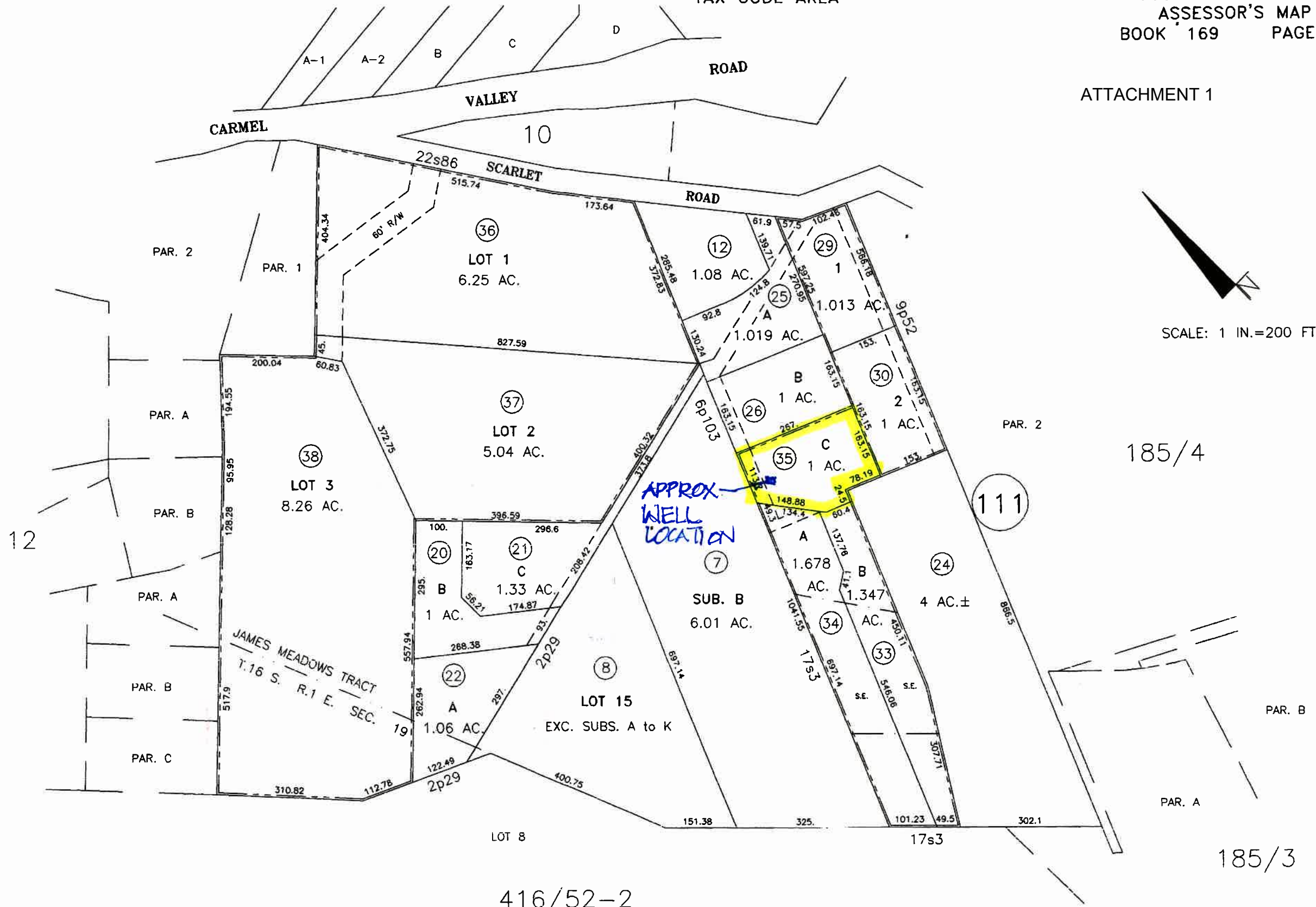
26. In addition to the requirements of Condition 7 and MPWMD Regulation IV and V, the Permittees shall report annually in the form and manner prescribed by MPWMD: (a) the quantity of water produced from the Source of Supply, (b) the amount of water delivered by month as recorded by the Water Meter for the User. Permittees shall inform the MPWMD if there are lot splits or mergers or changes in the Assessor's Parcel Number. The reporting year is defined as October 1 through September 30 of the next year. Annual reporting data shall be provided to MPWMD no later than 60 days (i.e., November 30) following the end of the reporting year.
27. Permittees shall provide to MPWMD, at no charge, copies of all future hydrologic, water production and water quality reports submitted to the local, state, and federal regulators, pursuant to agency permit conditions.
28. Permittees shall obtain written approval by MPWMD before drilling any Well to supplement the current Well, including confirmation by the MPWMD Water Resources Division Manager (or his designee) that the planned Well is not located in the CVAA or other component of the Monterey Peninsula Water Resource System.

ATTACHMENT 1- Service Area of Permitted System

ATTACHMENT 2- Indemnification Agreement

TAX CODE AREA

ATTACHMENT 1



SCALE: 1 IN.=200 FT.

SUBMITTED BY APPLICANT

THIS MAP IS INTENDED TO BE USED FOR
PROPERTY TAX ASSESSMENT PURPOSES ONLY

JAMES MEADOWS TRACT
PORTION OF LOT 15
T. 16 S. R. 1 E. SEC. 19

DRAFT

INDEMNIFICATION AGREEMENT

Consider Amendment of the “6C Scarlett Water Distribution System Permit to add one (1) Connection and set System Limits

Permittees: Teri Scarlett and Cynthia Scarlett

Permitted System: 6C Scarlett Water Distribution System

Assessor’s Parcel Number: 169-111-035-000

Application #WDS-202403086CS, Permit #S24-02-L3-AMD1

Adopted by MPWMD Administrative Hearing Officer on April 18, 2024

THIS AGREEMENT (“Agreement”) is made and entered into by and between the Monterey Peninsula Water Management District (“MPWMD”), and **Teri Scarlett and Cynthia Scarlett** (the property Owners) (referred to herein as “Indemnitors”) upon the date set forth below.

1. This Agreement has been entered into as a condition to the approval of the “**6C Scarlett Amendment**” Water Distribution System (WDS) Permit #**S24-02-L3-AMD1**, authorized by MPWMD Hearing Officer on April ___, 2024, on behalf of the Indemnitors. This approval stems from MPWMD Application #WDS-202403086CS to add one (1) Connection and set System Limits. The System Capacity (maximum annual water production) is set at 0.16 Acre-Feet per year, and the Expansion Capacity Limit is one (1) Connection. The Assessor’s Parcel Number is 169-111-035-000. The property is currently owned by Indemnitors **Teri Scarlett and Cynthia Scarlett**. This Agreement is a requirement of MPWMD Permit #S24-02-L3-AMD1, Condition #6, and must be executed by all parties prior to issuance of the amended WDS Permit.
2. Indemnitors expressly confirm and agree that they have entered into this Agreement and assumed the obligations imposed to induce MPWMD to undertake the actions stated in Paragraph 1 and acknowledge that MPWMD is relying upon this Agreement. Indemnitors further agree that MPWMD has made no representations that this permit approval is exempt from the SWRCB Order No. 95-10, WR 2009-0060, WR 2016-0016, or the California Public Utilities Commission (CPUC) Decision No. 11-03-048.
3. Indemnitors agree to indemnify MPWMD to the maximum extent authorized by the law as an inducement for MPWMD to undertake the actions referenced in Paragraph 1 without concern for any liability or expense which may result from the good faith performance of MPWMD’s duties. Creation of this Indemnification Agreement, and the assumption of the duties set forth herein, have induced MPWMD to undertake that action, and if this Agreement shall lapse, the actions of MPWMD as referenced above shall then become null and void.

4. Indemnitors agree, in consideration of MPWMD's participation and approval in the activities referenced in Paragraph 1, to defend, indemnify, and hold harmless MPWMD and its elected and appointed officials, agents, officers, attorneys and employees from all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses (including interest, penalties, attorney fees, accounting fees, and expert witness fees) of any kind or nature incurred by MPWMD, known or unknown, contingent or otherwise, directly or indirectly, including but not limited to personal injury or property damage, arising from or related to the activities referenced in Paragraph 1. This Agreement shall include, but shall not be limited to any action, or proceeding brought against MPWMD or its agents, officers, attorneys or employees to attack, set aside, void, annul, limit, modify or inhibit the activities referenced in Paragraph 1, and shall expressly include any action undertaken that may include claims or causes of action under the California Environmental Quality Act (CEQA), or the National Environmental Policy Act (NEPA).
5. Indemnitors' obligation to defend, indemnify, and hold harmless shall further include, but not be limited to, all costs relating to litigation, preparation of any administrative record, response to discovery, retention of experts, and other related costs. Indemnification shall further extend to any and all reasonable expenses, including, without limitation, attorney's fees, expenses incurred in establishing a right to indemnification, costs of investigation and costs of appeal, judgments, fines, settlements and other obligations incurred in connection with any demand, claim or proceeding, or any appeal therefrom, to which MPWMD is a party or threatened to be made a party.
6. If required to accomplish the activities referenced in Paragraph 1, Indemnitors agree to indemnify and hold harmless MPWMD for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document (including any CEQA or NEPA documents) that shall support, defend, or comply with any relevant order.
7. Indemnitors shall not be liable to indemnify MPWMD with respect to any expense, judgment, fine, settlement or other obligation incurred by MPWMD:
 - a. To the extent that such expense, judgment, fine, settlement or other obligation is actually paid or satisfied by an insurer on behalf of Indemnitors pursuant to an insurance policy;
 - b. In connection with any remuneration paid to MPWMD, if it shall be finally adjudged that such remuneration was in violation of law;
 - c. On account of MPWMD's misconduct if such misconduct shall be finally adjudged to have been knowingly fraudulent, deliberately dishonest or willful.
8. Indemnitors further agrees to make no claim, and hereby waive, to the fullest extent permitted by law, any claim or cause of action of any nature against MPWMD, its officials, officers, directors, employees, and agents which may arise out of or in connection with activities referenced in Paragraph 1.

9. In the event that Indemnitors are required to defend MPWMD in connection with the activities referenced in Paragraph 1, MPWMD shall retain the right to approve:
 - a. The counsel to so defend MPWMD and its agents, which approval shall be in writing;
 - b. All significant decisions concerning the timely manner in which the defense is conducted; and
 - c. Any and all settlements, which approval shall not be unreasonably withheld.
10. MPWMD shall not be required to participate in the defense of any proceeding. If MPWMD chooses to have counsel of its own where the Indemnitors have already retained counsel, the fees and expenses of the counsel selected by MPWMD shall be paid by the Indemnitors. MPWMD agrees to cooperate with the Indemnitors in the defense of any proceeding.
11. If MPWMD so elects, expenses actually and reasonably incurred by MPWMD in defending any demand, claim or proceeding shall be paid by Indemnitors from time to time as requested by MPWMD notwithstanding there may not yet be a final disposition of such demand, claim or proceeding. Indemnitors agree to advance any such expenses within ten (10) days after receipt from MPWMD of a written request for an advance payment. MPWMD shall not be obligated, however, to advance any such expenses if it is prohibited by applicable law from advancing such expenses. In the event that it is not ultimately determined that MPWMD is entitled to be indemnified, MPWMD shall repay the amount of any such expenses so advanced.
12. The defense and indemnification of MPWMD set forth herein shall remain in full force and effect throughout all stages of litigation including appeals of any lower court judgments.
13. MPWMD shall not settle any demand, claim or proceeding in any manner that would impose any obligation, penalty or limitation on, or that otherwise may adversely affect Indemnitors without Indemnitors' prior written consent. Neither MPWMD nor the Indemnitors shall unreasonably withhold its consent to any proposed settlement.

14. Any permit, appeal or other approval given by MPWMD to Indemnitors shall be valid only so long as this Indemnification Agreement is given full force and effect. If this Indemnification Agreement is revoked, the permit, appeal, or other approval of MPWMD shall then become null and void.
15. This Indemnification Agreement shall bind and benefit MPWMD, its successors and assigns, and Indemnitors and Indemnitors' successors in interest.
16. It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiations and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code section 1654.
17. In the event any party brings an action to enforce rights or to collect moneys due under this Agreement or applies to a court for judgment that indemnification is proper under the circumstances and is successful in whole or in part in such action or application, the prevailing party in such action shall be entitled to all reasonable fees and expenses (including attorneys' fees) in pursuing or defending such action or application.
18. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue shall be in the County of Monterey.
19. If any provision of this Agreement or the application thereof to any person, place or circumstance, is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect the validity or enforceability of the other provisions hereof, which provisions shall be deemed separate and distinct agreements.
20. No amendment or termination of this Agreement shall be effective unless in writing signed by the parties hereto.

(Signatures must be notarized. For all California Notaries, an All-Purpose Acknowledgement is required.)

Teri Scarlett

Dated: _____

Cynthia Scarlett

Dated: _____

By: _____

**David J. Stoldt, General Manager
Monterey Peninsula Water Management District**

Dated: _____

NOTICE OF EXEMPTION

TO: County Clerk, County of Monterey
PO Box 29
Salinas, CA 93902

FROM: Monterey Pen. Water Mgmt. Dist.
PO Box 85
Monterey, CA 93942-0085

Project Title: Amendment of the “6C Scarlett Water Distribution System” to One (1)
Connection and Set System Limits (MPWMD WDS Permit #S24-02-L3-AMD1)

Assessor Parcel Number: 169-111-035-000

Project Location: 6C Scarlett Road, Carmel Valley, California 93924-9437

County: Monterey

Description of Nature, Purpose and Beneficiaries of Project: The proposed project is to add one (1) Connection and set System Limits for a pre-existing Water Distribution System (Well) located in the Carmel Valley Alluvial Aquifer (CVAA) that has historically provided agricultural irrigation water. The Applicant is requesting the District set the Expansion Capacity Limit (number of Connections) at one Residential Connection. The Production Limit will be set at 0.16 Acre-Feet Annually (AFA). The MPWMD recognizes historic agricultural pumping from the Well at an average of 0.22 AFA during the most recent three years (2021-2023).

Name of Public Agency Approving Project: Monterey Peninsula Water Management District

Name of Person or Agency Carrying Out Project: Teri Scarlett and Cynthia Scarlett

Exempt Status: (check one)

- Exempt 15308, Actions by Regulatory Agencies for the Protection of the Environment
- Ministerial (Sec. 15073)
- Declared Emergency (Sec. 15269 (a))
- Emergency Project (Sec. 15269 (b) and (c))
- Categorical Exemption. Class 1, Section 15301(b), Existing facilities; negligible or no expansion of a public utility

Reason(s) Why Project Is Exempt: MPWMD’s approval complies with SWRCB Cease and Desist Order and Seaside Groundwater Basin Adjudication.

Agency Contact Person

Gabriela Bravo, Conservation Analyst, 831-658-5601 or gabby@mpwmd.net

_____ Dated: _____
David J. Stoldt
MPWMD General Manager