



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

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SUPPLEMENT TO 10/16/06 MPWMD BOARD PACKET

Attached are copies of letters received between September 18 and October 6, 2006. These letters are also listed in the October 16, 2006 Board packet under item 18, Letters Received.

Author	Addressee	Date	Topic
Michael Stamp	MPWMD Board	9/18/06	Proposed Ordinance 125 and Proposed Negative Déclaration
Robert Greenwood	MPWMD Board	9/18/06	Leaks in California American Water Distribution System <i>Attached is 9/22/06 response from David Berger</i>
Steven Leonard	Diana Ingersoll	9/20/06	Conditional Use Permit Application UP-06-18 for Monterey Peninsula Water Management District Phase 1 Aquifer Storage and Recovery Project



LAW OFFICES OF
MICHAEL W. STAMP

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(831) 373-1214

September 18, 2006

RECEIVED

SEP 18 2006

MPWMD

Via Facsimile
Michelle Knight, Chair,
and Members of the Board of Directors
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

Re: Proposed Ordinance 125 and Proposed Negative Declaration

Dear Chair Knight and Members of the Board of Directors:

My clients Save Our Carmel River, Patricia Bernardi and The Open Monterey Project continues to object to several aspects of Ordinance 125 and its negative declaration. The ordinance proposes to expand key terms and definitions that may have significant impacts which have not been adequately evaluated under CEQA.

First, neither I nor my clients received a the September staff report or the changed version of the attached 73-page ordinance in hard copy. I received an email link to the Board packet, but expected a hard copy. It is unreasonable to expect the public to print out such a quantity of pages, especially when I was the one who pointed out a printing error in the August version which made the changes unintelligible. I would have appreciated receiving a copy of the corrections. I was expecting those in order to review the changes. I learned this morning that no paper version of the staff report or ordinance had been sent to me.

Second, the September staff report does not identify what changes were made in the ordinance from the August version to the September version. That makes it impossible for the public to determine the differences, unless the public painstakingly goes through all 73 pages, comparing August's version of the 73 page-ordinance to September's version of the 73-page ordinance. This morning we requested from the District a list of the changes, and have not received it as of the writing of this letter.

My clients continue to object to all changes to Rule 11 that expand definitions, and object to the negative declaration because it inadequate identifies or discusses the impacts of those changes. The proposed changes expand the types and quantity of properties and water uses that would be eligible for certain actions, benefits, and procedures. The existing categories are more limited.

For example, the definition of "public" is proposed to be greatly expanded by Ordinance 125 as follows:

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41. PUBLIC - "Public" shall *mean be defined as belonging to the people; as, the public building, a road or lake, and shall include local, state and federal government a facility owned and operated by a public agency.*

In other words, under the current definition 41, a qualifying facility must be "owned and operated" by a public agency. Under the change to definition 41, a qualifying facility must only be owned by a public agency. That is a far broader category, and includes all the types of facilities we mentioned in my earlier letter, along with many other examples.

Other examples of expanded definitions include:

42. PUBLIC AUTHORITY USE — "Public Authority Use" shall mean water used by a *P*public entity. *The term "Public Authority Use" shall be given the same meaning as the term "Governmental Use".*

23. GOVERNMENTAL — "Governmental" shall mean related to government, and shall include local, state and federal government, and public agencies.

24. GOVERNMENTAL USE — "Governmental Use" shall mean water used by a public entity. *The term "Governmental Use" shall be given the same meaning as the term "Public Authority Use".*

These proposed changes appear to be a wholesale expansion of water used by a public agency to water used by a public entity, to include the military. The environmental review of this expansion fails to consider the huge military presence within the Peninsula's boundaries. The negative declaration fails to quantify the additional amount of water that would be included under the proposed definitions. Finally, why add a new definition that means the same thing as another definition? See "Governmental Use."

Mr. Laredo has stated that "these terms [defined above] are not modified by Ordinance 125." Laredo memo, September 11, 2006, page 2. But as shown above in ***bold italics***, those terms are modified by Ordinance 125.

Recommendation

My clients strongly recommend that you delete all proposed changes/additions to definitions of public, public authority, governmental, and governmental use. The proposed changes are expansions of the current terms. Your legal counsel's claim that "the defined terms do not cause an effect on the environment" misses the point. The

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proposed changes to Rule 11 expand the definitions of specific categories. The expanded definitions means many more properties can take advantage of water credit transfers and other actions under District rules. More properties means that more water use and water capacity is affected by the rules. The negative declaration fails to consider this potentially very significant impact.

Additionally, staff has failed to explain why these specific changes (to government and public) are necessary. They proposed changes appear to respond to specific requests by jurisdictions and/or the military for special treatment.

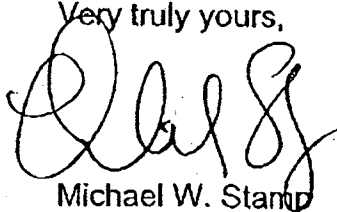
Other Issues

The deletion of changes to Rule 28-B (the Water Credit Transfer rules) addresses only part of the issue. My clients' objections to the Ordinance 125 are based on other issues, as well. The changes to the ordinance have not addressed all the problems with the ordinance or the negative declaration. The problems and inadequately addressed environmental impacts are significant, and are not addressed here in the interest of time, because your meeting is this evening. I explained above why these comments were delayed.

Separately, my clients disagree with your legal counsel's interpretation of Rule 28-B (Laredo memo, February 11, 2005). You should not rely on that letter as providing any basis for your action on Ordinance 125. Please put this office on the distribution list for hard copies of all notices, staff reports, and attachments in the event the District takes any actions in reliance upon the February 11, 2005 interpretation.

Finally, I cannot find the District Rules and Regulations on the MPWMD website. It is very confusing for the public to not have an accessible source to rely upon when trying to compare changes proposed by the MPWMD, such as those in Ordinance 125.

Very truly yours,



Michael W. Stamp

Received at 9/18/06 Board Meeting
B

Carmel Valley Association
P.O. Box 157 Carmel CA 93924

September 18, 2006

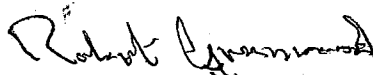
Board of Directors
Monterey Peninsula Water Management District

Oral Communications

Our members who live near Carmel Valley Village have observed persistent and substantial leaks from the Cal-Am system since last winter. Water has been running down El Caminito Road across Chaparral Road, and causing erosion along Chaparral Road.

Cal-Am repair crews appeared recently to patch the roadway, but they have done nothing to repair or replace the leaking pipes.

Cal-Am is spending money to urge its customers to improve their already good Conservation performance, but there is an even greater need for Cal-Am to maintain their own pipelines. We call this to your attention in the hope that your Board will require Cal-Am to take action.


Robert Greenwood,
Director, CVA



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September 22, 2006

Mr. Robert Greenwood, Director
Carmel Valley Association
P.O. Box 157
Carmel, CA 93924

Dear Mr. Greenwood:

This will serve to acknowledge receipt of your September 18, 2006 letter to the District Board expressing concern about running water, which you indicated is caused by persistent Cal-Am system leaks in the El Caminito and Chaparral roads area in Carmel Village. You also commented on this concern at the September 18 Board meeting. The next morning Cal-Am's manager, Steve Leonard advised me that he had his crews investigate the location that evening; reported to you that no leak or running water was found; and that he'd check Cal-Am repair records for this vicinity over the past six months. Mr. Leonard re-contacted me later that day to advise that the most recent field dispatch reports from that vicinity showed Cal-Am crews having repaired a reported main leak across from 195 El Caminito Road on the morning of August 19, 2006. He also reported that Cal-Am crews repaired main leaks near the El Caminito and Chaparral intersection on February 1 and 6, 2006.

The District appreciates your bringing this matter to our attention. I've asked Mr. Leonard to keep the District apprised of any Cal-Am follow-up actions regarding this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "D.A. Berger", written over a horizontal line.

David A. Berger
General Manager

cc Chair/Board of Directors
Steve Leonard
Stephanie Pintar



September 20, 2006

Diana Ingersoll
 Deputy City Manager
 Resource Management Services
 City of Seaside
 440 Harcourt Avenue
 Seaside, CA 93955

RECEIVED

SEP 22 2006

MPWMD

Subject: Conditional Use Permit Application UP-06-18 for Monterey Peninsula Water Management District Phase 1 Aquifer Storage and Recovery Project

Dear Ms. Ingersoll:

This letter is to express the support of California American Water (CAW) for the Monterey Peninsula Water Management District's (MPWMD's) efforts to implement a full-scale Aquifer Storage and Recovery (ASR) program in the Seaside Groundwater Basin, through development of its Phase 1 ASR Project. It is my understanding that the MPWMD has applied for a Conditional Use Permit (CUP) with the City of Seaside, which is scheduled to be considered by the City of Seaside Planning Commission at its meeting on September 27, 2006. I would appreciate your providing copies of this letter to Commission members.

CAW has been working cooperatively with the MPWMD since it began investigating Seaside Basin ASR feasibility in 1996. CAW believes Seaside Basin ASR will be an important component to the ultimate water supply solution for the Monterey Peninsula. Accordingly, Seaside Basin ASR is included as a component of CAW's Coastal Water Project (CWP), and we are working closely with the MPWMD to ensure that the Phase 1 ASR Project is fully compatible with our planned CWP facilities. In addition, the urgency of Seaside Basin ASR has increased due to the recent Seaside Basin adjudication decision, which includes directives to replenish groundwater resources in the Basin through artificial recharge.

Again, we fully support the Phase 1 ASR Project as a means to help restore the Seaside Groundwater Basin, and as an important step in realizing a long-term water supply solution for the Monterey Peninsula community. I wish to thank you and the City of Seaside for all the attention and cooperation you have provided in support of this effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Leonard".

Steve Leonard
 Vice President & Manager

cc: David Berger, MPWMD General Manager

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