



EXHIBIT 3-A

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MPWMD

MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5601
FAX (831) 644-9558 • http://www.mpwmd.dst.ca.us

APPLICATION FOR APPEAL

Rule 24 of the District Rules and Regulations states that upon request an applicant may apply for an appeal from standards incorporated in the District's Rules and Regulations. Appeals may be approved when: a) special circumstances exist, as defined in the Rules and Regulations; b) when strict interpretation and enforcement of any standard would cause undue hardship; and c) when the granting of such a appeal will not tend to defeat the purpose of the Rules and Regulations.

In order to be considered for an appeal hearing, all applicants must submit a completed application and a non-refundable processing fee. Fees are based on capacity for annual water use 1) 0.5 acre-feet or less, \$250 per structure; 2) 0.5 acre-feet but not greater than 1.0 acre-feet, \$500 per structure; and 3) greater than 1.0 acre-feet, \$750 per structure (Rule 63). Applicants must also provide any other information necessary to evaluate the case. (It may be necessary to provide 5 years of water records from purveyor). Applications must be received within twenty-one (21) days after an appealable decision has been made pursuant to District Rule 70. All applicants are required to provide the information requested on this form and may submit additional pertinent information, if desired. This information will be used as the basis for findings on which the Board will support or deny your appeal. Submission of an incomplete application may constitute grounds for denial of your request.

APPLICANT INFORMATION

- 1. Applicant's Full Name: Jonathan and Leanne Ryan
Mailing Address: 1050 Marcheta Lane
City: Pebble Beach State: CA Zip: 93953
Phone Number(s): Work (831) 784-6100 Home (831) 373-4004
2. Name of Agent(s) to Represent Applicant: Lombardo & Gilles, Attorneys
Mailing Address: 318 Cayuga Street
City: Salinas State: CA Zip: 93901
Phone Number(s): Work (831) 754-2444 Home ()

PROPERTY INFORMATION

- 1. Full Name of Property Owner: Jonathan David Ryan and Leanne Maggio Ryan
Mailing Address: 1050 Marcheta Lane
City: Pebble Beach State: CA Zip: 93953
Phone Number(s): Work (831) 784-6100 Home (831) 373-4004
2. Property Address: 1050 Marcheta Lane
City: Pebble Beach State: CA Zip: 93953
3. Assessor's Parcel Number: 007 - 342 - 008
4. Property Area: Acres: .2564 Square Feet: 10,913.3 Other:
5. Past Land Use: Residence
6. Present Land Use: Residence
7. Proposed Land Use: Residence
Existing buildings? Yes X No
Types of uses and square footage: 4649.2

STATEMENT OF APPEAL REQUEST

*If additional space is needed for response to any question, please continue on a separate piece of paper and attach it to the back of this application.

1. From which rule(s) or staff's decision(s) are you requesting an appeal?

Appealing staff's decision to apply Resolution 2001-09 adopted by the Board on July 16, 2001 which disallows water credits for exterior water fixtures.

Staff is applying the resolution retroactively to credits granted 2 ½ years prior to the Board's adoption of Resolution 2001-09.

2. Do you feel the rule or staff's decision is applicable in most cases, or do you believe it should be revoked or changed?

The rule should be applied on a prospective basis from time of adoption, not retroactively. It is unfair and unreasonable to revoke water credits previously granted under rules and regulations existing at the time credits were granted.

3. What were the circumstances surrounding your decision to appeal?

Our family purchased the residence in September 1998, with the intent to remodel the residence for our family of five. Prior to purchasing the house, we researched and relied upon existing rules and availability of water credits to meet our needs for our future remodel. Upon removal of an existing fountain and pond and installation of a low flow dishwasher, we were granted 2.5 credits in accordance with existing Rule 25.5. We have relied upon the letter from the District which states "These water use credits may be applied to future water use on the site referenced above at any time within a period of 60 months from the date of installation/removal...A single renewal period of 60 months is allowed"

We have continually relied upon this document in planning our remodel and in our plans submitted to the County in 2003.

We were never notified of any plans or intent to change the rule and apply such change retroactively, even though we would be specifically impacted. Legal precedent supports the necessity of notifying those specifically impacted under actions by a public authority.

In addition, Resolution NO. 2001-09 appears to be the District's attempt to curb flagrant abuses of the rules, in which property owners install extra indoor and outdoor fixtures in order to obtain additional water credits.

The Resolution states "Whereas District staff is unable to reliably distinguish between legally installed water fixtures and water fixtures installed without the appropriate permit, and Whereas it is the recommendation of the Water Demand Committee that exterior water fixtures be disallowed as Water Use Credits..."

This is clearly not the case in this situation. Our residence was built in 1928 and it was clear that the fountain and pond were installed in the early years of its existence and were not installed in an attempt to gain additional water credits.

Further, if it is the District's attempt to limit water use through management of the water credits, in this situation it makes no logical sense. We were told by staff that the water credits previously granted are revoked, but that we can reinstall the fountain and pond. The result of this staff decision is that we can still use the water, however we have to use it outside the house. This results in a losing proposition for everyone.

4. Please state the special circumstances which distinguish your application from all others which are subject to enforcement of this process.

Special circumstances in that credits had already been granted by the District under existing rule 25.5 and it is unreasonable and unfair to apply a change in policy adopted 2 ½ years later. Credits granted under previous policies should be grandfathered.

5. What difficulties or hardships would result if your appeal request was denied?

Adversely impact our plans for the remodel of our primary residence.

6. What specific action are you requesting that the Board take?

Overtturn the staff's decision as to application of subsequent Resolution 2001-09 to and revocation of credits previously granted by the District.

7. Please indicate if you intend to make a statement at the appeal hearing, and list the names of any other individuals who may speak on your behalf.

I intend to make a statement at the appeal hearing.

Other individuals who may speak on our behalf:

Representatives of the law firm of Lombardo & Gilles
William Mefford, Architect

PROJECT INFORMATION

**If additional space is needed for response to any questions, please continue on a separate piece of paper and attach it to the back of this application.*

1. Type of Project: _____ New Construction Remodel/Addition

2. Proposed New Use: (Please refer to the District's current Fixture Unit/Use Category sheet for assistance with this question.)

_____ Residential No. Dwellings _____ Total No. Fixture Units (Residential Only) 19.1

_____ Commercial/Industrial/Governmental

Type of Use: _____ Square Footage: _____

_____ Other (Specify): _____

3. Current Zoning Classification:

MDR/B-6-D-RES

4. Name of water company which services the property:

Cal Am

5. Do you feel this project will use less water than that calculated by the District? If so, please explain how much you believe the project will use, and the basis on which you make this assumption.

N/A - not calculated by the District

6. Has this project been approved by the local jurisdiction? If so, please list or attach a copy of all conditions which have been imposed on the project. (Attach a copy of these conditions and approvals received.)

Pending approval of plans from County Planning Department.

7. Does the applicant intend to obtain a municipal or county building permit for the project within ninety (90) days following the granting of a water connection permit? If not, when will water be needed at the site?

Yes

I declare under penalty of perjury that the information in the application and on accompanying attachments is correct to the best of my knowledge and belief.

[Signature]
Signature of Applicant

2/17/04 Pebble Beach CA
Date/Location

NOTE TO APPLICANT: You may attach written findings for the Board to review and consider in support of the action you have requested.

[Fee Paid _____ Receipt No. _____ Staff Initials _____]



Monterey Peninsula Water Management District

**DISCLOSURE STATEMENT
(EX PARTE COMMUNICATIONS)**

Name or description of project, action, etc.: 1050 Marcheta Lane

Names and addresses of all persons authorized to communicate with the Board of Directors on this matter:

<u>Name</u>	<u>Address</u>
<u>Jonathan & Leanne Ryan, owners</u>	<u>1050 Marcheta Lane, Pebble Beach CA 93953</u>
<u>Lombardo & Gilles, attorneys</u>	<u>318 Cayuga St., Salinas CA 93901</u>
<u>William Mefford, architect</u>	<u>91 Via Cimarron, Monterey CA 93940</u>

This *Disclosure Statement* is completed in my capacity as the Applicant for matter referenced in the first line, or as an authorized Agent of the Applicant. My signature evidences I am duly authorized to act on behalf of all individuals and/or entities that have an ownership interest in this matter (exceptions shall be noted by checking this box and providing a complete explanation as an attachment to this *Disclosure Statement*).

I understand this *Disclosure Statement* is required to list the names and addresses of all persons authorized to communicate with the Directors of the Water Management District on this matter. I further understand and agree to revise and amend this *Disclosure Statement* whenever any other person is authorized to communicate regarding this matter. Oral disclosure of agents shall not satisfy this requirement.

I understand and agree that failure to disclose the name of individuals who shall communicate with the District Board Members on behalf of the applicant shall subject the matter referenced above to immediate review and denial. Further, I understand that if denial is based on failure of either the applicant or of an authorized agent of the applicant to comply with these disclosure requirements, no request for approval of an identical or similar matter shall be granted for a period of twenty-four (24) months from the date this matter is denied.

I declare the foregoing to be true and correct of my own personal knowledge. I have signed this form this 17 day of February, 2004. This form is signed in the City of Pebble Beach, State of California.

Jonathan Ryan
Name (print)

Jonathan Ryan
Signature



MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
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January 27, 2004

Mr. Jonathan D. Ryan
1050 Marcheta Lane
Pebble Beach, California 93953

Subject: 1050 Marcheta Lane, Pebble Beach. APN: 007-342-008

Dear Mr. Ryan:

This letter responds to your letter to Ms. Stephanie Pintar, Water Demand Manager, requesting the District reinstate the water credit for an outdoor fountain/pond that was disallowed when Resolution 2001-09 was adopted in July 2001. The fountain/pond existed when you purchased the property in September 1998. On February 8, 1999, the District documented that a credit of two fixtures units would result if the fountain/pond was permanently removed. You would now like to receive a water credit for two fixture units.

Following receipt of your letter on January 20, 2004, the District reviewed the information related to your property including reviewing any water permits, inspection report, Resolution 2001-09, and the District's Rules and Regulations. Resolution 2001-09, adopted by the Board on July 16, 2001, disallows water credits for exterior water fixtures. Public Notice of the Resolution was posted prior to the July 2001 Board meeting. Therefore, you may maintain the outdoor fountain/pond, but no water credit is available for its removal.

The denial of a water credit for an outdoor fountain/pond at 1050 Marcheta Lane, Pebble Beach, is a final determination of the Water District's General Manager. Final determinations of the General Manager may be appealed to the District Board within twenty-one (21) days after any such determination pursuant to District Rule 70.

If you have any questions, please call the Water Demand Division at 658-5601.

Sincerely,

A handwritten signature in black ink, appearing to read "Gabriela Ayala".

Gabriela Ayala
Conservation Representative



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

187 ELDORADO STREET • POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 649-2500
FAX (831) 649-4870 • <http://www.mpwmd.dst.ca.us>

658 - 5000

February 8, 1999

Jonathan & Leanne Ryan
1050 Marcheta Lane
Pebble Beach, CA 93953

RE: Documentation of Credit for 1050 Marcheta Lane, Pebble Beach

Dear Jonathan & Leanne Ryan:

In accordance with MPWMD Rule 25.5, the following credit has been verified to be current at the site referenced above:

Fixture Unit Credit of .5 fixture units will result from the installation of an Ultra Low Flow Dishwasher.

Fixture Unit Credit of 2.0 fixture units will result from the removal of the decorative fountain. .

These Water Use Credit may be applied to future water use on the site referenced above at any time within a period of 60 months from the date(s) of installation/removal.

After 60 months, renewal of the Water Use Credit will be allowed only upon proof that some or all water savings represented by the credit are current. If savings are not current, a pro-rated reduction will occur. A single renewal period of 60 months is allowed; thereafter, any unused Water Use Credit will expire.

This letter should be presented to the Water Management District to utilize the credit. If you have any further questions, please call me at (831)649-2500

Sincerely,

A handwritten signature in cursive script, appearing to read "Arba L. Goode".

Arba L. Goode
Conservation Representative