



EXHIBIT 4-D

## MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

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April 30, 2004

Kristina Berry  
Acting Executive Officer  
LAFCO of Monterey County  
P.O. Box 1369  
Salinas, CA 93902

**SUBJECT:** Continued MPWMD Response to Proposed Detachment of the Tehama and Monterra Subdivisions from the Monterey Peninsula Water Management District (LAFCO File No. 04-02) – *(Reference: Petition to Initiate Proceedings under the Cortese-Knoz-Hertzberg Act of 2000 for Detachment of Tehama and Monterra Subdivisions from the Monterey Peninsula Water Management District)*

Dear Ms. Berry:

The Monterey Peninsula Water Management District (MPWMD or District) appreciates this continued opportunity to comment on the above-referenced Proposed Detachment. This letter incorporates by reference the District's March 31, 2004 letter to the Local Agency Formation Commission (LAFCO), and focuses on response comments made by Lombardo & Gilles (Derinda Messenger) in a letter to Fran Farina dated April 19, 2004 (**Enclosure 1**).

The District understands that other agencies are also submitting comments on this matter. The District has not had an opportunity to review any comments made by other agencies. Thus, the District reserves the right to expand on its March 31 and April 30, 2004 comments prior to or as part of a public hearing or other similar proceeding on this matter.

The following paragraphs address the numbered responses contained in the Lombardo & Gilles letter dated April 19, 2004:

### **Response 1, Agency Notification**

The District notes Lombardo & Gilles' offer to provide copies of the Petition to the California Department of Fish & Game (CDFG), California Public Utilities Commission (CPUC), State Water Resources Control Board (SWRCB), and State Department of Health Services (DHS). The District recently was advised that the National Marine Fisheries Service (NOAA Fisheries) wishes to participate in this proceeding and comment.

**Responses 2 and 3, Impact to Agency Enforcement**

The Petition and Petitioner's comments are in direct conflict with the findings and declarations made by the California State Legislature (Water Code-Appendix 118). The Legislature declared in Section 118-2, Legislative Findings (**Enclosure 2**) that:

- The water problems on the Monterey Peninsula require "integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for promotion of reuse and reclamation of wastewater."
- The Monterey area "scenic, cultural and recreational resources are particularly sensitive to the threat of environmental degradation."
- For this reason, the need for management "cannot be effectively met on a piecemeal basis."

Most importantly, the Legislature stated:

- "It is hereby declared that a general law cannot be made applicable to such area, and that the enactment of this special law is necessary for the public welfare and for the protection of the environmental quality and the health and property of the residents therein." [emphasis added]

In responses 2 and 3, the Petitioner indicates that general law is adequate to serve the needs within the District boundaries. According to the California State Legislature, this is not true.

The District agrees that agencies are mandated to enforce their regulations within their areas of authority and expertise. For example, the District is not suggesting that CDFG enforce DHS regulations. The District is suggesting that the level of enforcement effort by one agency may be low in terms of staffing, funding and other resources if another agency exists with similar powers and authority focused on a specific geographic area. As noted in Response 3, it is known that overlapping authority exists between MPWMD and other agencies such as the Monterey County Water Resources Agency (MCWRA). Indeed, this overlapping authority is the primary basis for the applicant's Petition, which alleges "duplication and inefficiency" (see Petition, Exhibit B-1).

Because of MPWMD's focus on the Carmel River, Seaside Basin and other key areas within its boundaries, other agencies such as MCWRA have reduced their level of regulatory effort within the District, particularly along the Carmel River and Seaside Basin. This is exemplified in the Memorandum of Understanding and Addendum No. 1 dated May 25, 1993 between MPWMD, MCWRA and Pajaro Valley Water Management Agency. If the Petition is approved and the District no longer regulates the Tehama/Monterra areas, agencies such as MCWRA would need to increase their level of enforcement effort. The key question is whether staff, funding, resources and expertise exists for MCWRA and/or other entities to adequately perform the functions that the District currently performs in the Tehama/Monterra area and surrounding areas potentially impacted by the water systems for these subdivisions. Based on state and county budget cuts, the MPWMD anticipates that resources are not available to provide a similar level of effort that MPWMD currently carries out. This needs to be confirmed by the affected agencies.

It appears that the primary intent of the Petition is to avoid regulation by MPWMD, knowing that other agencies have a limited ability to carry out enforcement duties in the Carmel River basin. This issue is not a minor matter of "less forms to fill out," the rationale expressed by Monterra co-owner Roger Mills as quoted in the April 27, 2004 issue of the Monterey Herald. This issue reflects the very important matter of Subdivisions that share a common vital resource being accountable to the public.

#### **Response 4, SWRCB Water Rights Permit**

Condition No. 8 of SWRCB Permit Nos. 20831 and 20832 for the Cañada Woods Water Distribution System (WDS) that serves the Tehama/Monterra Subdivision area sets out several important rulings. Rulings relevant to MPWMD are highlighted below:

- Permittee shall comply with all lawful ordinances of Monterey Peninsula Water Management District.
- Permittee shall be subject to fees for the use of water, including use fees, connection fees and assessments.
- Permittee shall be subject to the rationing requirements of MPWMD, in frequency and percentage no greater than required of consumers in Cal-Am's water distribution system in times of water supply shortage caused by drought.
- Permittee shall irrigate and maintain the riparian corridor on permittee's property abutting the Carmel River if MPWMD and Cal-Am fail to perform this obligation. The riparian irrigation shall be separately metered and certain restrictions apply.
- The SWRCB provisions do not mean that other provisions, regulations or agreements are invalid.

Condition No. 8 is identical for both permits, and the full text is provided as **Enclosure 3**.

The SWRCB water rights permits clearly acknowledge the interrelationship between diversions to serve the Subdivisions and other diversions from the Carmel River. The water withdrawn to serve the Subdivisions contributes to adverse environmental effects to the river. Yet, the District would not have lawful authority over the Permittee if the detachment request is approved. This would interfere with the Legislature's specific direction to carry out integrated management of sensitive environmental resources, avoid a piecemealed approach, and implement special law throughout the District to protect the environment and the public (See Response 2 and 3).

Similarly, the Subdivisions would not be subject to an MPWMD rationing program in a water supply shortage if the detachment is approved, even though a significant portion of their supply comes from a shared public resource (the Carmel River alluvial aquifer). Because the success of any rationing program greatly depends on positive public perception and cooperation, a necessary rationing program could be jeopardized if one part of Carmel Valley (the Subdivisions) enjoys no rationing while others in the District suffer hardship and cut-backs. Such a situation would not be desirable or acceptable.

#### **Response 5, Subdivision Water Supply Is Not "Distinct and Independent"**

The Petitioner has not established that their water source is "distinct and independent" from a hydrologic or legal basis. The Petitioner acknowledges that part of the water supply for the

subject territory is derived from the Carmel Valley Alluvial Aquifer, and is not a “distinct and independent” water supply source. This fact is extremely important in light of the State Legislature’s mandate to avoid piecemealing and conduct integrated management of water resources (see Response 2 and 3).

The Petitioner states that the legal status of the supply is distinct and independent, but provides no documentation, evidence or basis to support that assertion. The District disagrees that the supply is legally distinct and independent. For example, the Petitioners have failed to address why their submission to the CPUC is inconsistent with its presentation to LAFCO. Specifically, in the CPUC’s Decision 02-04-006 dated April 12, 2002 (Exhibit D to the Petition to LAFCO), the CPUC approved the Petitioner’s application for a Certificate of Public Convenience and Necessity (CPCN) for the Cañada Woods Water Company to serve the Tehama/Monterra area, including the requirement for the applicant (Petitioner) to maintain the agreements with Cal-Am set forth in Exhibit M of the Cañada Woods Water Company’s application to the CPUC. **Enclosure 4** is a listing of the agreements and other information contained in Exhibit M. Importantly, Exhibit M includes signed agreements for an emergency interconnection between the Monterra Ranch system and the main Cal-Am system that serves the broader Monterey Peninsula community, as well as agreements for Cal-Am to operate and manage, and potentially own, the Cañada Woods water system. Due to its extensive length, Exhibit M is being provided separately to LAFCO.

In addition, the Petitioners have submitted engineering materials to the District as part of the applications to MPWMD regarding the Cañada Woods WDS (alluvial and non-alluvial). The Petitioners have constructed a complex web of interconnecting transmission facilities. These multiple systems draw water from the Carmel River alluvial aquifer, upland wells and reclaimed water sources. These systems co-mingle water from both the Carmel River Basin and outside of the basin.

Regardless of the perceived legal status, the simple fact is that the Subdivisions rely in part on water from a community resource – the Carmel River – that the State Legislature has declared to be particularly sensitive to environmental degradation and needs protection via special laws and a special agency, that is, the MPWMD (see Response 2 and 3).

#### **Response 6, Impact of Water Demand**

Although EIRs were prepared and certified for the subject Subdivisions, these EIRs did not address the subsequent listing of the Carmel River steelhead trout and California red-legged frog as federally threatened species. These species were listed after the EIRs were certified. Diversion of water from the river to serve the Subdivisions contributes to the habitat degradation for these species and the need for the District to regularly rescue steelhead from the drying riverbed.

#### **Response 7, Riparian Corridor Management**

The Tehama/Monterra service areas derive a significant quantity of water from parcels immediately adjacent to the Carmel River (the riparian corridor). No other agency besides MPWMD actively manages or has the responsibility to manage the riparian corridor as an

integrated whole as mandated by the State Legislature (see Response 2 and 3). The District employs a full-time professional riparian corridor program manager and associated staff. Loss of District regulatory authority within the subject territory would lead to piecemealed management of the riparian corridor, in conflict with the findings of the Legislature. The Petitioner falsely states that "both Cal-Am and the permittee/Company are responsible for managing the riparian corridor." This is not true. The fact is that Cal-Am, the Petitioner and any other property owner along the riparian corridor are responsible for complying with permit conditions and regulations imposed by resource management agencies such as MPWMD.

#### **Response 8, Access to Riparian Corridor**

The District is concerned about fragmentation of integrated management of the riparian corridor, which conflicts with the direction of the State Legislature (see Response 2 and 3). The Petitioner's response inaccurately addresses public access issues, which misses the point. The relevant issue at hand is the District's ability to manage activities and restrict improper actions within the riparian corridor, such as unauthorized motorized vehicles destroying the river banks and associated habitat. Specifically, the State Legislature has imbued the MPWMD Board with the authority to restrict or close the river to motorized vehicles and to require a written permit for various activities within the riparian corridor. These are enumerated in the State Water Code, Appendix 118, Sections 118-369 and 370 (**Enclosure 5**).

As a public agency exercising its regulatory authority, the District staff has the legal right to inspect property and conduct certain activities. It does not have this right outside of its boundaries. Thus, if the detachment is approved, District staff could be prevented from inspecting and monitoring important riparian areas near the diversion well(s) serving the Subdivisions. Because of the central location of the Subdivisions within the lower Carmel River watershed and riparian corridor, detachment would create a "hole" within the District and adversely affect the District's ability and responsibility to carry out integrated riparian corridor management activities in a manner that avoids piecemealing, as directed by the State Legislature (see Response 2 and 3).

#### **Response 9, District Law and Authority**

The District reasserts that removal of a significant portion of the lower Carmel River watershed from MPWMD's regulatory authority would adversely affect MPWMD's ability to achieve its State Legislature mandate to carry out integrated management and avoid piecemealed solutions (see Response 2 and 3, and Water Code Appendix 118-2). The Petitioner's response ignores the many successful programs of the District and focuses on the lack of a major water supply project, which is irrelevant to the detachment issue at hand.

#### **Response 10, Importation/Exportation of Water**

The Petitioner inaccurately states that no statute prevents a transfer of water into or out of the District and, in an apparent typographical error, cites District Act section 315.5 that does not exist. Water Code Section 118-325.5, Development of Water Resources, states,

"To the extent feasible, the District policy shall require development of water resources within the District boundaries before utilizing water originating outside its boundaries."

Water Code Section 118-328(h) states that the District:

“shall have the power to prevent unlawful exportation of water from the District.”

This latter statute is also relevant in that the District currently regulates mobile water distribution systems, such as water being trucked into the Subdivisions from another part of the District, perhaps due to a water supply shortage. This regulatory authority would be compromised by the proposed detachment.

#### **Response 11, Completeness of Application to MPWMD**

The District has the authority to regulate all water distribution systems within its boundary. The District is currently reviewing applications submitted previously by the Petitioners for the Cañada Woods WDS. Our concerns and questions go to factual aspects of the application such as water demand, water sources, impact of water production, co-mingling of water sources, etc. It is not in LAFCO's authority to determine whether or not an application to MPWMD is complete or not, so the Petitioner's response is moot.

The Petitioner's response does reflect the more important issue of a regulated entity (the Petitioner) attempting to avoid regulation by requesting detachment from the regulating agency (MPWMD). The subject systems are regulated like all other similar water distribution systems within the District, and should not be afforded special treatment.

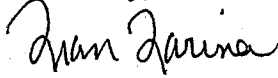
#### **Conclusions**

In conclusion, the Petitioner's response contains numerous inaccuracies and lacks the documentation to support several statements. The subject territory clearly is not a “distinct and independent” water supply, either from a hydrologic or legal perspective. The intent of the Petition appears to be to avoid reasonable regulation shared by all other citizens and water systems within the community, even though the Subdivisions draw from a highly vulnerable public resource shared by over 100,000 people. Most importantly, the Petition and response ignore the basic fact that, if approved, detachment of the Tehama/Monterra Subdivisions would thwart the declared intent of the State Legislature that:

- integrated management is needed for the water supply and environmental resources of the Monterey Peninsula;
- piecemealed management is not adequate or acceptable, especially in relation to the Carmel River; and
- due to inadequacies of general law, a special law creating a special agency, the Monterey Peninsula Water Management District, is needed to protect the public interest and sensitive environment resources of the Monterey Peninsula.

Thank you for your consideration of MPWMD's continued comments on the subject Petition. Please contact me at 831/658-5650 or Henrietta Stern at 831/658-5621 if you have questions. Legal questions should be directed to David Laredo at 831/646-1502.

Sincerely,



Fran Farina  
General Manager

Enclosures:

1. April 19, 2004 letter from Lombardo & Gilles (D. Messenger)
2. State Water Code, Appendix 118, Section 118-2
3. Condition No. 8 of SWRCB Permit Nos. 20831 and 20832 for the Cañada Woods WDS
4. Components of Exhibit M of approved application to CPUC for Cañada Woods WDS
5. State Water Code, Appendix 118, Sections 118-369 and 370

Under separate cover to LAFCO – full text of Exhibit M of CPUC application

Cc: MPWMD Board of Directors  
David C. Laredo, De Lay & Laredo  
Curtis Weeks, MCWRA  
Kevan Urquhart, CDFG  
Laura Lawrence, MCHD  
Steven Herrera, SWRCB  
Fred Curry, CPUC  
Betsy Lichti, DHS  
Joyce Ambrosius, NOAA Fisheries  
Steven Leonard, Cal-Am

Anthony L. Lombardo  
Jeffery R. Gilles  
Derinda L. Messenger  
James W. Sullivan  
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Todd D. Bessire  
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File No. 368.033

April 19, 2004

VIA FACSIMILE

**RECEIVED**

APR 21 2004

**MPWMD**

Fran Farina, General Manager  
Monterey Peninsula Water Management District  
P.O. Box 85  
Monterey, CA 93942-0085

Dear Ms. Farina:

This letter serves to respond to your letter to LAFCO dated March 31, 2004, regarding the petition for detachment from the Monterey Peninsula Water Management District ("District").

1. Comments on the proposed detachment were solicited on March 19, 2004 from 23 agencies, including Monterey County Water Resources Agency and Monterey County Health Department. By copy of your letter dated March 30, 2004, the California Department of Fish & Game, California Public Utilities Commission, State Water Resources Control Board and State Department of Health Services have been made aware of the petition and may submit comments. I will provide those agencies with a copy of the petition.
2. Each of the above mentioned agencies are mandated to enforce their regulations and may not rely on another agency to ensure that the petitioner is in compliance with those regulations. For example, it is not likely that the California Department of Health Services enforces the California Fish & Game Code.
3. The Memorandum of Understanding ("MOU") and Addendum No. 1 dated 5/25/1993, have no bearing on the proposed detachment from the District. These agreements specify the responsibilities of each agency (District, Pajaro Valley Water Management District and Monterey County Water Resources Agency) within its respective territory. The territory of each agency is not fixed in these agreements. What is interesting to note, however, is that MOU Recital A recognizes that three agencies have been created which have "overlapping territory and with many similar powers."
4. The State Water Resources Control Board Appropriative Water Permits state that the "[P]ermittee shall comply with all lawful ordinances of Monterey Peninsula Water Management District." Upon detachment, the District will no longer have "lawful" authority over the Permittee. This language appears in the Water Permit because it was contained in a settlement agreement between the District and Permittee. There was no intent to prevent, nor does the language preclude, detachment from the District.



5. Petitioner does not disagree that part of the water supply for the subject territory is derived from the Carmel River Alluvial Aquifer. The reference to a "distinct and independent" water supply is in reference to its legal status, not its hydrology.
6. The impacts of water demand within the subject territory received a full analysis in the Environmental Impact Report ("EIR") prepared for the Cañada Woods North project that was certified by Monterey County Board of Supervisors by Resolution 96-518.

With respect to the bedrock wells, the EIR states that there are no known bedrock wells in the vicinity of Cañada Woods and Cañada Woods North. The closest wells to the north are the Monterra Ranch wells which are not impacted due to their distance from Cañada Woods/Cañada Woods North. The closest wells to the west are those in September Ranch. The EIR concludes that the September Ranch wells are not impacted because they draw either from a separate terrace aquifer or are in the Carmel River Alluvial Aquifer.

Regarding the Cañada Woods Company's ("Company") alluvial aquifer wells, the EIR concluded that withdrawal of water pursuant to the Appropriative Water Permits would not have an adverse or significant effect on the resources of the Monterey Peninsula Water Resource System. In fact, subsequent to certification of the EIR, the Company agreed to reduce its alluvial pumping from 147 to 118.4 acre feet per year (a reduction of approximately 20%).

The petition for detachment from the District does not call for an increase in pumping from the alluvial aquifer or groundwater basins, as you have indicated in your letter.

7. The Appropriative Water Permits require the permittee to "irrigate and maintain the riparian corridor on permittee's property abutting the Carmel River if MPWMD and Cal-Am fail to perform this obligation." Clearly, both Cal-Am and the permittee/Company are responsible for managing riparian corridor.
8. The Carmel River is considered a public trust resource, and, as such, District Staff as well as the public are able to traverse the riparian corridor. In fact, most, if not all, of the Carmel River riparian corridor is privately owned and the District does not hold easements which allow access at every point.
9. The District recites Water Code Appendix 118-2, which calls for the District to preserve and protect the Carmel River Basin. Although I am unable to locate that specific citation, §2 of the District Act provides that the "water problems of the Monterey Peninsula" and sensitive reserves are best served if an entity were established to raise capital to finance water projects, supply water and regulate the distribution of water within the district. So far, the district has only provided regulations for distribution of water. As set forth in the

Fran Farina, General Manager  
Monterey Peninsula Water Management District  
April 19, 2004  
Page 3

petition for detachment, the District's regulations are duplicative of those of other agencies and permits applicable within the subject territory.

10. First, it is worth noting that there is no statute that prevents a transfer of water into or out of the District (See District Act § 315.5).

Second, the only circumstance under which water could be transferred into or out of the District is in the event of a water supply emergency. In 1991, the predecessor in interest to the subdivision referred to as Monterra Ranch entered into an Emergency Inter Connection Agreement with Cal-Am. The Agreement provides that either water purveyor may deliver water to the other in the event of an emergency. In the six years of operation of the Monterra Ranch water system, such an emergency has not occurred.

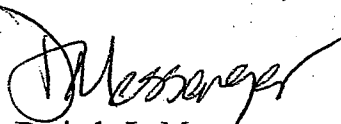
11. The Cañada Woods Water Company was required to submit a complete application by September 30, 2003, to amend its permit to include non-potable wells and water uses as well as reclaimed water (although not required for other reclaimed water users). The Company submitted a complete application as requested. Notwithstanding your request, the Company is not required to respond to questions 15 or 16 as they are only required for creation of a new system, not the expansion of an existing system.

Additionally, the District asks for a "written narrative description for each portion of the system...". However, this is not requested in the application, only a map illustrating the facilities is requested. Accordingly, the Company contends that it has submitted a complete application and, therefore, is not in violation of its permit conditions.

If you have any further questions, please feel free to call me.

Sincerely,

Lombardo & Gilles, PC



Derinda L. Messenger

DLM/ltl

cc: Kristina Berry, Executive Director, LAFCO

App. § 117-9.2

WATER CODE—APPENDIX

Division 3

Beginning at the intersection of the northerly boundary of the Central Delta Water Agency with the westerly boundary of Division 1; thence southerly along the westerly boundary of Division 1, 2.5 miles, more or less, to the westerly boundary of Division 2; thence southerly along the westerly boundary of Division 2 to the southerly boundary of said Central Delta Water Agency; thence southwesterly, northerly and easterly along the southerly, westerly and northerly boundary of said Agency to the point of beginning.

(Stats.1973, c. 1133, p. 2326, § 9.2.)

Historical and Statutory Notes

Derivation: Former § 108-10.2, added by Stats.1968, c. 419, p. 870, § 10.2.

CHAPTER 118. MONTEREY PENINSULA WATER MANAGEMENT DISTRICT LAW

Table with 2 columns: Part and Section. Rows include: 1. Introductory Provisions (118-1), 2. Formation (118-101), 3. Internal Organization (118-201), 4. Powers and Purposes (118-301), 5. Finances (118-501), 6. Changes in Organization (118-801).

An act relating to water districts and in this connection to create the Monterey Peninsula Water Management District [Water C.App. §§ 118-1 to 118-901] for the collection, conservation, storage, reclamation, treatment, disposal, distribution, and delivery of water and sewage within the agency, and prescribing its organization powers and duties. (Stats.1977, c. 527, p. 1672, § 1.)

PART 1. INTRODUCTORY PROVISIONS

Table with 2 columns: Chapter and Section. Rows include: 1. Short Title (118-1), 2. Legislative Findings (118-2), 3. Definitions (118-5).

CHAPTER 1. SHORT TITLE

Section 118-1. Short title.

Cross References

Procedure for letting contracts, see Public Contract Code § 21620 et seq.

§ 118-1. Short title

Sec. 1. This act shall be known and may be cited as the Monterey Peninsula Water Management District Law.

(Stats.1977, c. 527, p. 1672, § 1.)

CHAPTER 2. LEGISLATIVE FINDINGS

Section 118-2. Findings and declarations.

§ 118-2. Findings and declarations

Sec. 2. The Legislature hereby finds that water problems in the Monterey Peninsula area require integrated management. The major water supply for this area is derived from the Carmel River

basin and the major uses lie outside that basin. The adopted central coast basin plan divides the management of the several basins, resolving in division, waste, and shortage of water resources.

The Legislature further finds and declares that within the Monterey Peninsula area, there is need for conserving and augmenting the supplies of water by integrated management of ground and surface water supplies, for control and conservation of storm and wastewater, and for promotion of the reuse and reclamation of water. In this region of primarily scenic, cultural, and recreational resources, which are particularly sensitive to the threat of environmental degradation, such need cannot be effectively met on a piecemeal basis.

The Legislature further finds and declares that, within the Monterey Peninsula area which will be served by the public district created by this law, the water service is principally supplied by a privately owned water supplier which does not have the facilities nor the ability to perform functions which are normally performed by public agencies, including the ability to raise sufficient capital for necessary public works, contract with, or provide necessary assurances to, federal and state agencies for financing of water projects and supplying of water, and the regulation of the distribution of water developed within or brought into such service area. Therefore, the Legislature finds and declares that it is necessary to create a public agency to carry out such functions which only can be effectively performed by government, including, but not limited to, management and regulation of the use, reuse, reclamation, conservation of water and bond financing of public works projects.

In order to serve the people of the Monterey Peninsula efficiently, to prevent waste or unreasonable use of water supplies, to promote the control and treatment of storm water and wastewater, and to conserve and foster the scenic values, environmental quality, and native vegetation and fish and wildlife and recreation in the Monterey Peninsula and the Carmel River basin, it is, therefore, hereby declared that a general law cannot be made applicable to such area, and that the enactment of this special law is necessary for the public welfare and for the protection of the environmental quality and the health and property of the residents therein.

(Stats.1977, c. 527, p. 1672, § 2.)

### CHAPTER 3. DEFINITIONS

#### Section

- 118-5. Effect of definitions.
- 118-6. Application of definitions.
- 118-7. District.
- 118-8. Public entity; entity.
- 118-9. Board; board of directors.
- 118-10. Member unit.
- 118-11. County.
- 118-12. United States.
- 118-13. State.
- 118-14. Work; works.
- 118-15. Participating zone.
- 118-16. May; shall.
- 118-17. Elector; qualified elector; voter.
- 118-18. Zone; improvement zone.
- 118-19. Supplemental source.
- 118-20. Basin production percentage.

#### § 118-5. Effect of definitions

Sec. 5. Unless the context otherwise requires, the definitions in this chapter shall govern the construction of this law.

(Stats.1977, c. 527, p. 1673, § 5.)

#### § 118-6. Application of definitions

Sec. 6. The definition of a word applies to any of its variants.

(Stats.1977, c. 527, p. 1673, § 6.)

#### § 118-7. District

Sec. 7. "District" means the Monterey Peninsula Water Management District.

(Stats.1977, c. 527, p. 1673, § 7.)

State Water Resources Control Board Permits 20831 and 20832  
Issued March 26, 1996  
Amended May 2, 2003

Condition 8 *[This condition is identical in both permits except as noted.]*

8. Permittee shall comply with the following provisions which are derived from the two *[sic - three agreements are cited]* agreements between permittee and MPWMD executed on August 21, 1992; the agreement between permittee and the Department of Fish and Game (DFG) executed on March 27, 1995; and the agreement between permittee and California Native Plant Society executed on March 29, 1995, all of which are filed with the SWRCB:

- 1) Permittee shall remain subject to all lawful ordinances of MPWMD;
- 2) Permittee shall be subject to fees for the use of water from any public utility, including, but not limited to use fees, connection fees, and assessments;
- 3) The permittee shall be subject to the rationing requirements of MPWMD, in frequency and percentage no greater than required of consumers in Cal-Am's water distribution system in times of water supply shortage caused by drought;
- 4) Upon forty-eight (48) hours advance notice by DFG, permittee shall minimize or cease, if required, agricultural pumping for a single period not to exceed forty-eight (48) hours in any thirty (30) day period to assist DFG, to mitigate adverse impacts to benefit public trust fish and wildlife resources of the Carmel River; and
- 5) The permittee shall irrigate and maintain the riparian corridor on permittee's property abutting the Carmel River if MPWMD and Cal-Am fail to perform this obligation.

Any water appropriated for the maintenance of riparian vegetation shall be separately metered and added to the permit's interim limit of 118.44 afa contained in conditions 5 and 11, but shall not exceed the maximum diversion amount identified in the permit.

*[This paragraph appears in Permit 20832 only.]*

Inclusion in this permit of certain provisions of the referenced agreements shall not be construed as disapproval of other provisions of the agreements or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
**APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**  
**APPLICATION NO. 0107014**  
**DATED JULY 6, 2001**

In the matter of the Application of CAÑADA WOODS WATER COMPANY for a Certificate of Public Convenience and Necessity to Operate a Public Utility Water Service, Sewer Service; and Wastewater Reclamation Service in Monterey; to Acquire from and Operate the Facilities of Monterra Ranch Mutual Water Company and Cañada Woods Treatment Company; and to Establish Rates for Public Utility Water Service, Sewer Service and Reclaimed Water Service.

**Exhibit M.** Agreement for the Operation and Management of the Monterra Ranch Subdivision Water System, Emergency Inter Connection Agreement; and, Grant of Option to Purchase the Cañada Woods Water System

**Exhibit M** contains the following documents:

1. **Agreement for the Operation and Maintenance of the Monterra Ranch Subdivision Water System** – Signed January 10, 1992 for Hanover Monterra Investors II by Helen Jacobs-Lepor, President of Mazel Investments, Inc. its General Partner, and December 26, 1991 for California-American Water Company by Lawrence D. Foy, Vice President
2. **Agreement No. A-5676, Agreement Regarding Maintenance, Repair, Operation of, and Capital Improvements to, the Water System for Monterra Ranch Subdivision** – Signed January 10, 1992 for Hanover Monterra Investors II by Helen Jacobs-Lepor, President of Mazel Investments, Inc. its General Partner, and February 26, 1991 by Sam P. Karas, Chair, Board of Supervisors, for County Service Area No. 69 and County of Monterey
3. **Monterey Peninsula Water Management District, Conditions of Approval for Creation of Monterra Ranch Water Distribution System**, February 26, 1990
4. **Emergency Inter Connection Agreement** – Signed for Hanover Monterra Investors II by Helen Jacobs-Lepor, President of Mazel Investments, Inc. its General Partner, and for California-American Water Company by Lawrence D. Foy, Vice President – dated 1991 (month and day not indicated)
5. **Grant of Option To Purchase the Cañada Woods Water System** – Signed April 7, 1996 for Cañada Woods Trust by Alan Williams, Trustee, and March 7, 1996 for California-American Water Company by Lawrence D. Foy, Vice President

## WATER CODE—APPENDIX

## App. § 118-369

§ 118-363. Establishment or expansion of water distribution system; necessity to approval; rules; exceptions

Sec. 363. No person, owner, or operator shall establish, extend, expand, or create a water distribution system unless and until the approval of the board is first obtained in writing. For the purposes of such approval, the board may adopt such rules and regulations and establish such forms for such applications as are necessary and proper. The board may provide by ordinance for exceptions to the requirement for approval for systems furnishing domestic water to three or fewer parcels or lots in the district.

(Stats.1977, c. 527, p. 1698, § 363.)

§ 118-364. Basin production percentage; determination

Sec. 364. The board may determine, in the manner provided in this law, the basin production percentage as defined in Section 20.

(Stats.1977, c. 527, p. 1698, § 364.)

§ 118-365. Production of needs from ground water

Sec. 365. The district may require that producers produce more or less of their total water needs from the ground water within the district than the basin production percentage determined by the district as provided in this article.

(Stats.1977, c. 527, p. 1698, § 365.)

§ 118-366. Encouraging use of water from alternative sources

Sec. 366. The district may distribute water to persons in exchange for ceasing or reducing ground water extractions and to fix the terms and conditions of any contract under which producers may agree to use water from an alternative nontributary source in lieu of ground water, and to such end the district may become party to such contract and pay from the district funds such portion of the cost of waters from an alternative source as will encourage the purchase and use of such water in lieu of producing ground water, so long as the persons or property within the district are directly or indirectly benefited by the resulting replenishment.

In such cases, vested rights to underlying ground water may be protected as provided in Section 1005.1 or 1005.4 of the Water Code, and such sections are applicable, for this purpose, in the district.

(Stats.1977, c. 527, p. 1698, § 366.)

## ARTICLE 3. RECREATIONAL FACILITIES

## Section

118-368. Construction and maintenance of public recreational facilities.

118-369. Carmel River, its bed and banks; restriction of use or closing to motorized vehicles.

118-370. Permits for acts in or along bed or banks of Carmel River; exceptions.

§ 118-368. Construction and maintenance of public recreational facilities

Sec. 368. The district may construct, maintain, improve, and operate public recreational facilities appurtenant to any water reservoir operated or contracted to be operated by the agency, and to provide by ordinance regulations binding on all persons to govern the use of such facilities, including, among others, regulations imposing reasonable charges for the use thereof. Violation of any such regulation shall be a misdemeanor.

(Stats.1977, c. 527, p. 1699, § 368.)

118-369. Carmel River, its bed and banks; restriction of use or closing to motorized vehicles

Sec. 369. The board, by resolution, may restrict the use of or close to motorized vehicles, the Carmel River, its bed and banks, or any portion thereof, whenever the board considers the closing or restriction of use necessary for either of the following:

(a) The protection of the public.

(b) The protection of the river or its bed and banks from damage.

Any person who willfully fails to observe any sign, marker, warning, notice, or direction, placed or given pursuant to this section, is guilty of a misdemeanor.

The board may not restrict the use of, or access to, that portion of the riverbank where that use or access is necessary to the ordinary operation, maintenance, or repair of existing golf courses.

The board may not restrict use of or access to lands within the State Park System.  
(Added by Stats.1983, c. 767, § 1.)

§ 118-370. Permits for acts in or along bed or banks of Carmel River; exceptions

Sec. 370. (a) The board may issue written permits authorizing the permittee to do any of the following acts in or along the bed or banks of the Carmel River or its tributaries:

(1) Excavate or repair any river bed or river bank, including, but not limited to, the installation of gabions or riprap.

(2) Plant, irrigate, remove, cut, or destroy any tree, shrub, or plant. This subdivision shall not be construed as applying to the ordinary operation, maintenance, or repair of existing golf courses.

(b) The district engineer, or person authorized by the district engineer, may supervise any work done under a permit issued pursuant to this section. This section shall not be construed to apply to the diversion or extraction of water.

(c) Activities conducted under the following state acts and programs shall be exempt from the use restrictions and permit jurisdiction otherwise authorized under this section:

(1) Timber operations conducted pursuant to license under the Z'berg-Nejedly Forest Practice Act of 1973, as required by Article 7 (commencing with Section 4581) of Chapter 8 of Division 4 of the Public Resources Code.

(2) Control burning operations for range improvement and fire hazard reduction conducted pursuant to permit in accordance with Section 4470 of the Public Resources Code.

(3) Forest improvement activities, including preparation and planting of trees, under provisions of Chapter 1 (commencing with Section 4790) of Part 2.5 of Division 4 of the Public Resources Code.

(4) Control of the State Park System under the provisions of Chapter 1 (commencing with Section 5001) of Division 5 of the Public Resources Code.

The exemptions specified in this subdivision shall not be construed in any manner to take away or limit any authority vested in the County of Monterey to impose restrictions in or grant permits for any of these activities.

(Added by Stats.1983, c. 767, § 2.)

CHAPTER 3. SEWAGE, INDUSTRIAL WASTE, AND STORM WATER

Section

118-371. Acquisition, operation, etc., of sewage, industrial waste and storm water facilities.

118-372. Manner of raising funds by member units to make payments required by agreements with district.

118-373. Formation of improvement zones within district.

118-374. Contracts with member units for use by district of capital improvements of member units.

118-375. Provisions of chapter additional and supplementary.

118-376. Acquisition and use of facilities within sanitation district; exception.

§ 118-371. Acquisition, operation, etc., of sewage, industrial waste and storm water facilities

Sec. 371. Subject to the provisions of Section 376, the district may plan, finance, acquire, construct, operate, and maintain, either inside or outside its boundaries or both, facilities for the collection, treatment, transmission, reclamation, or disposal of sewage, industrial waste, or storm water, or any combination thereof, delivered to it by its own facilities or by one or more of the member units. The board may prescribe, revise, and collect, or cause to be collected, rates or other charges for the services and facilities furnished by the district pursuant to this chapter, including charges for connecting to its facilities.

(Stats.1977, c. 527, p. 1699, § 371.)

§ 118-372. Manner of raising funds by member units to make payments required by agreements with district

Sec. 372. The governing board of any member unit may raise the funds necessary to make the payments required by any agreement with the district, (a) by taxation as permitted by the law pursuant to which such member unit was formed, (b) by charging the users of the facilities of such