MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • http://www.mpwmd.dst.ca.us

# SUPPLEMENT TO 8/16/04 MPWMD BOARD PACKET

Attached are copies of letters received between July 9 and August 6, 2004. These letters are listed in the August 16, 2004 Board packet under item 18, Letters Received.

| Author | Addressee | Date | Topic |
|---|---|---|---|
| Denver Dale | Ted R. Hunter | 07/13/04 | Ordinance No. 109 – Expansion of CAWD/PBCSD Wastewater Reclamation Project |
| Kevin King | Fran Farina | 07/13/04 | Exemption from Water Rationing for Commercial Laundries |
| Mayor Jerry Smith | Steven Leonard | 7/15/04 | Proposed Moratorium and Supplemental Water Supply |
| Mary Boland | David Berger | 7/17/04 | Power vs. Water |
| Denver Dale | Alvin Edwards | 7/19/04 | Ordinance No. 109 – Expansion of CAWD/PBCSD Wastewater Reclamation Project |
| Mary Boland | Monterey County Tax Assessor | 7/19.04 | APN 010-052-021<br>**Letter of response from David Berger is attached* |
| Morris G. Fisher | Michael R. Peevey | 7/21/04 | PUC Approval of a Temporary Rate Increase for the California-American Water Company |
| Michael W. Stamp | Alvin Edwards | 7/28/04 | Negative Declaration, MPWMD Ordinance No. 117 Re-Establishing Ministerial Approvals of Water Credit Transfers |
| David Dilworth | MPWMD Rules & Regulations Review Committee | 8/2/04 | Rule XX Must Retain Mandatory Revocation as Enforcement |
| David Berger | Starla Warren | 8/4/04 | Rippling River – Request for Water Credit Transfer<br>**Letter of response from Stephanie Pintar is attached* |

Copy



DR DENVER D. S. DALE

July 12, 2004

RECEIVED

JUL 16 2004

MPWMD

Ted R. Hunter, Carl E. Nielsen
Concerned Residents of Pebble Beach & Monterey County
P.O. Box 1229
Pebble Beach CA 93953

Gentlemen:

Thank you for your letter dated July 6, 2004.

Firstly, my wife and I own a "dry" lot in Pebble Beach. Although we were excited to finally see the passage of Ordinance 109, and the promise of water for our lot, I have now discovered what I believe is a deception on the part of Pebble Beach Co. that will seriously impact those, like us, desperate for water. Let me try to communicate my concern.

From the start, PBCo. has indicated that they would sell up to 175 AF of potable water in order to raise the $22M they need to upgrade the reclamation project. Intuitively, this means that all stakeholders (and the press) have estimated the cost of the water at $125,000-$150,000/AF. However, the unfortunate fact is that Ordinance 109 places no floor on the amount of water PBCo. must sell in order to raise the $22M.

This loophole has given PBCo. the opportunity to now focus on maximizing their profit on this transaction (which is contrary to the spirit of Ordinance 109), and which will cost me and others in need of water a great deal of money. Let me explain.

Rather than simply selling the 175 AF described in Ordinance 109, here is what the PBCo. is now doing:

1. Talking with the potential buyers of their water;
2. Unofficially proposing a price of "$200,000-250,000/AF";
3. Gauging buyer interest at prices much higher than those contemplated by Ordinance 109;
4. Planning to sell the minimum of water needed to meet their funding needs (I am told they will sell only about 100 AF, maybe less).

Gentlemen, although this is not "cash profiteering" (as you know, PBCo. keeps none of the cash proceeds of the water sales), it is most certainly "water profiteering", as the higher they can sell their water per AF to desperate landowners, the less of it they need to sell (and so the more water they can retain for possible future sales, potentially at much higher prices).

Now that Ordinance 109 is law, PBCo. is rather blatant about working to maximize the price they charge for the water – in fact, they had the audacity to tell me recently that I shouldn't care what I pay for the water, as it will greatly increase the value of my dry lot. And that they are not profiteering on this transaction because they get none of the proceeds. Both of these comments are insulting, and clearly show their sales methods.

24005 FAIRFIELD PLACE • CARMEL, CALIFORNIA • 93923
TELEPHONE: (510) 376 1704 • EMAIL: DENVER@DALE-MARKUSEN.COM

The bottom line here is that if PBCo. had suggested, in pursuing Ordinance 109, to the MPWMD – "PBCo. will sell the minimum of our potable water at the maximum price the market will bear in order to fund our reclamation project", I can tell you right now that Ordinance 109 would never have passed. But that is exactly what PBCo. is now doing.

I wish I had seen their ploy earlier – it would have been key to make sure that Ordinance 109 put a floor in the amount of water PBCo. could sell, effectively capping the price at around $150,000/AF (this would equate to about 150 AF). But with no floor in place, and hence no price cap, I would not be surprised if they set the price well over $200,000/AF, maybe closer to $250,000/AF. The fact is that their water will sell at almost any price, because we need it so badly – PBCo. knows this, and is unashamedly profiting from that fact.

I can tell you right now that PBCo. is absolutely taking advantage of our desperate need for water, and profiting from our pain. I obviously want water for my lot, and I am prepared to pay $150,000/AF under Ordinance 109. But I am not going to be taken advantage of by PBCo. If enough potential buyers are made aware of PBCo.'s ploy, we can force them to sell their water closer to the price with which they seduced the MPWMD into passing Ordinance 109.

Thank you for your time. If my concerns are not clear from this letter, I would be happy to meet with you in order to explain them in detail.

Many thanks,

Dr. Denver D. S. Dale

cc: D. Berger, MPWMD

A. Bell, MPWMD

24005 Fairfield Place • Carmel, California • 93923
Telephone: (510) 376 1704 • Email: denver@dale-markusen.com

KING LAUNDRIES
27614 SCHULTE RD.
CARMEL, CA.
93923

July 13,2004

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AUG - 2 2004
MPWMD

HAND DELIVERED

Fran Farina
Manager
Monterey Peninsula Water Dist.

Ms Farina,
King Laundries has been in the coin laundry business since 1976. We have been through rationing before,as you well know,like many other businesses. However because of the nature of our business,we have been made exempt from rationing,due to the health and safety aspect of our community. Residents,as well as visitors to the Monterey Peninsula, require clean clothes. During the last rationing program,your board realized the importance of clean clothes, and placed the laundry industry in the same category as the hospital.

We use the latest water efficient washers that the laundry industry manufactures. We are requesting that you allow us to continue this exemption.

Any questions pertaining to this matter, we will gladly answer.

Respectfully,

Kevin King

OFFICE OF THE MAYOR
440 Harcourt Avenue
Seaside, CA 93955

Telephone (831) 899-6700
FAX (831) 899-6227
TDD (831) 899-6207

**VIA FAX**

RECEIVED
JUL 22 2004
MPWMD

July 15, 2004

Mr. Steve Leonard
Vice President
California American Water
50 Ragsdale Drive
Monterey CA, 93942

**SUBJECT: PROPOSED MORATORIUM AND SUPPLEMENTAL WATER SUPPLY**

Dear Mr. Leonard:

The City of Seaside ("Seaside") urges California American Water ("Cal Am") and the California Public Utilities Commission ("CPUC"), as the regulating agency, to not adopt a moratorium on new water service connections at this time, and to encourage expedited efforts to obtain near-term and long-term supplemental water supplies.

A water service moratorium would be highly detrimental to the social and economic vitality of Seaside. It would: (a) impair planned redevelopment programs that are critical to restoring the community's economic well being, (b) forestall the development of affordable housing, which is of critical need to Seaside and the rest of the Peninsula, and (c) eliminate the ability for new business ventures to start or relocate to the City's redevelopment projects.

The City of Seaside is a part of the greater Monterey Peninsula area. Much of the City is within the service area of the California-American Water Company and the City's residents and ratepayers are directly affected by the manner in which the CPUC proceeds in considering a moratorium pursuant to Order 2 of Administrative Law Judge McVicar's July 8, 2004 decision on Application 04-06-020.

Seaside acknowledges the critical water shortages facing the Peninsula because of limitations imposed by the State Water Resources Control Board Order WR 95-10 in relation to diversions from the Carmel River and the precarious condition of the Seaside Groundwater Basin that has resulted in part from Cal Am's increased pumping from its Seaside Basin wells in response to Order WR 95-10. Seaside also understands the significant financial penalties that Cal Am and its ratepayers could face if it exceeds Order WR 95-10's mandatory limitations.

However, because of the dire consequences that will result from the imposition of a water moratorium, Seaside encourages Cal Am and the CPUC to delay imposing a moratorium until all other possible alternatives have been exhausted. In this regard Seaside believes that Cal Am should first attempt to satisfy current needs by: (a) continue to aggressively encourage the community to further conserve water, (b) making all possible system improvements to lower Cal Am's percentage of unaccounted water, and (c) implementing the more aggressive tiered rate pricing provided for in Order 1 of Judge McVicar's recent decision

Seaside also implores Cal Am, the CPUC, the Monterey Peninsula Water Management District ("MPWMD"), and other stakeholders to expedite efforts to obtain near-term and long-term supplemental water supplies to relieve the Peninsula's current water deficiencies. The community has experienced water shortages for over 25 years, but no significant supplemental water supply has been developed. As evidenced by the current drought conditions and proposed consideration of a moratorium, it is imperative for the community's economic and social well being that new water supplies are diligently pursued.

Seaside encourages Cal Am's to continue its recent efforts to obtain a long-term solution from a regional desalination plant at Moss Landing. However, this project has now been discussed for nearly 3 years since the CPUC released the Plan B Project Report in September 2001. It is time for real and immediate action to bring this Project to fruition. The situation is urgent. Seaside and the other Peninsula communities will be damaged without a new source of water. As Cal Am and the CPUC advance the Coastal Desalination Project through the CPUC review and approval process, Seaside suggests that shortened review of environmental documents be requested from the Governor's Office of Planning and Research and that any other expedited processing opportunities that may be permitted by CPUC regulations be diligently pursued.

In the near-term, Seaside encourages Cal Am to investigate the availability of additional supplemental supplies that might be obtained to help bridge the gap between current conditions and the realization of a permanent long-term solution, including any water that might be made available from the Marina Coast Water District's water supply augmentation project(s). As a related matter, Cal Am should again approach the SWRCB to request short-term relief from the provision of Order WR 95-10 that requires all newly developed water supplies be used to offset the current over production from the Carmel River. Seaside is willing to jointly participate in any such request, and believes that such request might receive more favorable reception by the SWRCB if presented as part of a global solution that demonstrates how and when long-term supplemental supplies will be obtained, and how the Seaside Basin will be effectively managed.

Finally, Seaside has participated with Cal Am and other local groundwater users for over a year to pursue a consensus-based approach for management of the Seaside Basin to protect the basin as perpetual component of the Peninsula's water supply. Seaside is committed to finishing this effort and is hopeful that the CPUC, the MPWMD, and the other stakeholders will further

cooperate to settle the existing basin adjudication lawsuit in favor of a cooperative basin management plan.

Seaside recognizes the significant water supply problems facing Cal Am and the Monterey Peninsula, but is also gravely concerned about the fundamental damage to the economic foundation of Seaside and its sister Peninsula communities that would be caused by a water service moratorium. Accordingly, Seaside is willing to extend all reasonable assistance to Cal Am to achieve near and long-term solutions, but requests that a moratorium be considered as a truly last choice option.

Thank you for your consideration of Seaside's concerns. We would welcome the opportunity to meet with you to discuss ways in which Seaside may be able to help Cal Am with some short-term solutions to the water shortage in order to prevent a Peninsula-wide moratorium.

Sincerely,

Jerry Smith
Mayor

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JUL 19 2004

MPWMD

P.O. Box 5111
Crespi, 2 SW of Mt. View
Carmel-by-the-Sea,
CA 93921
831/624-2486
July 17, 2004

David Berger, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Bldg. G
P.O. Box 85
Monterey, CA 93942-0085

RE: Power vs. Water

Dear Mr. Berger:

I am pleased to learn that a "peacemaker" in the form of a general manager has been appointed to the MPWMD. Taking politics out of water on the Peninsula, especially in Carmel-by-the-Sea will be no easy task. I wish you Godspeed.

So as not to be redundant I have enclosed only a few of my letters in attempting to procure water for the development of my small parcel of land in Carmel-by-the-Sea.

Along with my frustration from the reply and/or lack thereof from my correspondence comes my belief in that a temporary solution to the so-called water shortage should now come in the form of: no water, no taxes! Until the building moratorium is lifted, a moratorium on property taxes should and must be declared. It is long overdue and incumbent upon our local politicians to familiarize themselves with our constitution and come to the realization that they can no longer control and financially ruin small land owners, all under the guise of the lack of $H_2O$.

Sincerely,

Mary A. Boland

Mary A. Boland

Encl: (8) Pcs. of Pertinent Correspondence

cc: Monterey County Tax Assessor

10

P.O. Box 5111
Carmel-by-the-Sea,
CA 93921
January 20, 2001

RECEIVED

JUL 19 2004

MPWMD

Brian Roseth, Principal Planner
City of Carmel-by-the-Sea
Community Planning and Building Department
P.O. Drawer G
Carmel-by-the-Sea, CA 93921

RE: Vizcaino Lot-of-Record, APN 010-052-021

Dear Mr. Roseth:

I am writing for a determination as to building a home on my lot-of-record which to date I have been forbidden to use for its intended purpose.

My husband and I purchased the above parcel some thirty-five years ago with retirement in mind. Upon retiring and returning to the area with preliminary sketches, we were informed by a local architect of the water situation and that there was some question of being able to finalize plans in time to gain approval from the planning and building department. The architect's suggestion was to inquire as to the possibility of having the department place our name on a list to gain necessary time. My husband called your department the latter part of 1996 only to learn that it was first come, first served. And that there was no way they could show partiality or discriminate against those already standing in line with approved plans. My husband pointed out that we resided in southern California and had no knowledge of the critical water situation. That if we had been privy to the information, we too would be one of those now standing in line. Being completely dejected, we returned to the south to sever connections before making our final move to Carmel-by-the-Sea in 1997.

After the move I spent considerable time researching and spoke with both Rick Tooker from your department and Stephanie Locke from the Monterey Peninsula Water Management District. I learned some confusing and disturbing information. Foremost: we were not informed in 1993 when the City was provided with some Fifteen acre-feet of water by MPWMD and that eighty-five percent of this allocation was used for residential construction of approximately sixty new homes and some remodels. Further, when a single structure was on land which by today's standards constitutes two, three or more 40 X 100 lots, building two, three or more homes was permissable by combining water credits from the single demolished structure with "1993 water". In 1998 there was actually seven homes under construction where there had been one. Using this formula, it cannot be construed to be water conservation or an equitable distribution. The rational eludes me.

In January 1998 I located a lot for sale which had been granted "1993 water" through the multiple structure arrangement. The building permit was to expire that month. Stephanie Locke suggested we petition the City to have the water reallocated to us, stating their fees would be refunded. When I called Mr. Tooker with this proposal I was rebuffed with the suggestion that we consider buying the water. I informed him buying water was not an option for us. In the spring, April 4, 1998 to be exact, I again called Mr. Tooker about this unsavory practice of buying water and the possibility of obtaining a conditional use permit and/or forming a water list, as in neighboring cities, in hopes of providing some relief for our predicament. I was summarily

dismissed with the terse remark that I wasn't the only Mary Boland who wanted to build! Well, perhaps he was just having a bad day.

It was during this time-frame that my husband became ill and everything but his health was of little concern and put on hold. After his demise in 1999 and knowing I would have to consider selling my home, I ventured into your department to inquire if there was anything on the horizon that would offer hope for building. I was merely informed that the City was out of water, along with other nebulous remarks offering no hope in years to come.

I then became interested in the upcoming local election last April. I felt it was possibly time for a change in the guard which hopefully might bring about some solutions to this and other nettling problems among the residents. And not place the tourists' considerations above those who vote them in office. At that time I let it be known of paramount importance to me was my lot-of-record and that I should not be held hostage by local building contractors who had water and would build "for a price" and/or purchase the lot for the depressed price. And in the interim, declare a moratorium on property taxes until a resolution could be reached. This was accomplished in the seventies when owners of lots-of-record were forbidden to build. And if my research serves me correctly, it didn't take long for the situation to be rectified.

In July of last year I again contacted your department and was informed by Chip Rerig that I could not transfer existing water fixture credits from my present residence to the Vizcaino lot since the two properties are not contiguous. This was later confirmed by MPWMD.

During the interval, it was called to my attention that the adult children of a family in a somewhat similar situation had sought legal counsel and were requesting water to be allocated to their parents' lots-of-record so that they could sell the property in order to care for their aged parents. Until this week I was unable to ascertain the outcome. I am pleased to learn that the Golman's situation has been resolved in their favor and the property may now be sold for its true value.

Where no two situations are exactly the same in that I have no desire to seek legal counsel, nor do I have adult children to champion my cause. However, the Golman/Boland situation are precisely the same in that neither of us received notification which in turn resulted in the devaluation of our vacant lots.

I find it inconceivable that all owners of lots-of-record were not notified of the water situation and/or provided with their fair distribution and held in abeyance until notification. I feel it was incumbent upon the City in 1993 to have had a mechanism in place to notify all out-of-town owners prior to any disbursement of water for new construction. Along with an equitable arrangement in place to meter out the allocation of this precious natural resource. The manner in which multiple structures were allowed to be built by combining water credits from a single demolished structure can only be considered "fuzzy math" and most certainly, not equitable. But, I might add, a bonanza for the developers. Someone was clearly not guarding the henhouse or protecting the interest of the lowly single lot owner. It doesn't take a great mathematical mind to figure out at that rate the reserve would be quickly depleted. With these gross injustices comes the necessary challenge of undoing the wrong that was perpetrated.

My question was and remains -- in 1996-97 when we were pleading our case and with the multiple structure arrangement in place -- why wasn't it haulted before the City ran out of water?

In February 1998, the revised report released by MPWMD numbered Carmel's vacant lots at fifty-five. Today's figures stand at less then fifteen. That's a reduction of some forty. Am I missing something here? How and where did these owners procure water? It would appear the buying of water is alive and well.

This scenario has been the cause of much consternation and disappointment to us in the system. A system that was put in place to provide and protect the rights of all the people. This very system through its flawed process has taken water from us by the maldistribution of the unguarded reserve and through the lack of communication and notification.

However, the crushing blow of all came down upon my head like a sledge hammer. When last July, quite by accident, I discovered that the City did not exhaust its water allocation until 1997! Remember, it was the latter part of 1996 that my husband made his initial contact with the planning and building department. And I was researching the situation and making contact that very year -1997-.

I had a potential buyer for my residence if left in tact with the beautiful color-coordinated bathroom fixtures. I realized then I would suffer additional financial loss if I were to remove said fixtures. Such as replacing them with low flush toilets, etc. prior to the sale. And there is some question as to water conservation with those fixtures. But since I was and am unable to transfer water fixture credits, this presents no problem. I am not making, nor wish to make a request for this concession. I can ill afford another financial hit.

Again, I am pleased the City Council determined the Golman request be granted and I am hopeful that by so doing, it gives direction to the Planning Commission to prepare a new allocation resolution to this sorry situation. I am therefore, requesting to be shown the same consideration and provided with water resources from the Municiple Reserve for the development of my lot. By so doing this will enable me to be secure in providing for myself during my declining years.

Well, maybe after all is said and done, I am the only Mary Boland who wishes to build. I shall await your reply.

Yours sincerely,

Mary A. Boland

c: Sue McCloud, Mayor
Rich Guillen, City Administrator

# *City of Carmel-by-the-Sea*

**COMMUNITY PLANNING AND BUILDING DEPARTMENT**
**POST OFFICE DRAWER G**
**CARMEL-BY-THE-SEA, CA 93921**
**(831) 620-2010 (OFFICE)**
**(831) 620-2014 (FAX)**

RECEIVED
JUL 19 2004
MPWMD

2 April 2001

Mary A. Boland
Post Office Box 5111
Carmel, CA 93921

Dear Mary A. Boland,

Thank you for your thoughtful letter received 23 January 2001. You raise many points and recount a history that is clearly a great frustration. I will try, as best I can, to explain some of the background surrounding your concerns. I regret that this Department was not able to respond sooner.

Water supplies on the Monterey Peninsula have been constrained since at least the 1976-77 drought. It was at that time that the Monterey Peninsula Water Management District was formed. The area within the District boundaries, including Carmel, receives no water from State or Federal water projects and is entirely dependent on two small reservoirs in Carmel Valley and the Seaside Aquifer. In spite of exhaustive studies of new dams, desalination, conservation, reclamation and other sources, the Water District has produced very little in the way of increased supplies. A well in the Seaside Aquifer and a reclamation project to water golf courses are the only projects that generated new water for development.

Faced with a very limited supply and a much larger demand, Carmel-by-the-Sea adopted policies and ordinances to manage this precious resource. Adoption of these policies and ordinances followed multiple public hearings that received wide public notice and extended press coverage in both the Carmel Pine Cone and the Monterey Herald. Absentee property owners bear some responsibility to follow such public notices if they wish to stay informed and/or influence local decisions that might affect their property.

In adopting these policies and ordinances, the City made several decisions to maximize the benefits derived from its limited allocation of water from the District:

- Most of the water was reserved for remodels and new homes in the residential area. More than 75% of the City's water was dedicated to this purpose.

- The amount of water that could be dedicated to any single property was limited based on lot size. This avoided 'water hoarding' and ensured that more properties would be able to share the limited resource available.

- The number of existing fixture units on each property was protected and property owners were allowed flexibility in keeping these fixture units on site or shifting them to adjacent lots under the same ownership. This, coupled with the limit of fixture units per site, actually reduced the potential draw on City water supplies instead of increasing them, as you suggest.

- Mandatory retrofitting of inefficient plumbing fixtures was required upon sale or remodeling of any property.

- The City specifically chose not to establish any kind of waiting list. Other jurisdictions had very mixed results with such lists. They created 'haves' and 'have-nots' and often reserved water for people with no immediate need or desire to actually build.

These, and other adopted measures, could not fully solve the problem. There simply was too little supply to meet the demand. Your letter correctly observes that the City's policies would quickly exhaust the reserve and would not protect every lot owner. This was known when the policies were adopted. If the City had reserved water for each vacant or underdeveloped lot the amount that would be available for each lot would have been so small as to make construction of a home impractical. Since not everyone could be served, a first come-first served system was put in place and the measures noted above were established to extend the resource as far as it could be stretched. This meant that some would be able to develop and some would not.

Please believe me when I tell you that members of this Department do not enjoy informing people that there is insufficient water for worthwhile projects that are proposed. I regret that you feel mistreated by past comments of City staff and I offer my apologies if you were offended. For several years now City staff has

had to be the bearer of bad news on this subject and not a week goes by that doesn't include some similar incident where a project must be stopped or cut back because of the water shortage.

Your comments regarding the Golman situation are well taken. The Golmans had a developed property and they demolished their home but failed to rebuild. Over time, by operation of Water District law, they lost their water credits from the preexisting home. This is distinguishable from your own situation which involves a vacant lot with no prior development.

Nonetheless, I consider your letter a bona fide request for City action. You deserve access to the same public process afforded the Golman's. To this end I will schedule a review of this matter by the Planning Commission within 90 days. The City still has 1.8 acre-feet of water in its municipal reserves that are uncommitted to any specific project. If the Planning Commission and City Council agree that it should be assigned for your lot (and/or all other remaining vacant lots) this could be accomplished by adoption of a new allocation resolution. Once a date has been set for Planning Commission review this office will inform you.

Thank you for your patience and understanding. Please let me know if you have further questions. For processing purposes, it also would be helpful to know exactly how much water you are requesting.

If you have any questions or comments please feel free to contact me or Chip Rerig at this office.

Sincerely,

Brian Roseth

Brian Roseth
Principal Planner

CC: Sue McCloud, Mayor
Rich Guillen, City Administrator
Peter Katzlberger, Acting Director of Planning and Building
Chip Rerig, Acting Planning and Building Manager

# *City of Carmel-by-the-Sea*

**COMMUNITY PLANNING AND BUILDING DEPARTMENT**
**POST OFFICE DRAWER G**
**CARMEL-BY-THE-SEA, CA 93921**
**(831) 620-2010 (OFFICE)**
**(831) 620-2014 (FAX)**

September 13, 2001

RECEIVED
JUL 19 2004
MPWMD

Mrs. Mary A. Boland
Post Office Box 5111
Carmel, CA 93921

Dear Mrs. Boland:

Re: AD 01-5
SE corner Mt. View and Vizcaino
Block 103, lot 2

At its meeting on 12 September 2001, the Planning denied your request to transfer water from the Municipal allocation to a lot in the Residential (R-1) District.

Findings for Denial will be brought to the Planning Commission at its meeting of September 26, 2001.

If you have any questions or require additional information, please call the office at 620-2010.

Sincerely,

Anne Morris

Anne Morris
Planning Services Coordinator

CITY OF CARMEL-BY-THE-SEA

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING

STAFF REPORT

TO: CHAIRMAN WASKO AND PLANNING COMMISSIONERS

FROM: JACI ABADILLA, ASSISTANT PLANNER

RECEIVED
JUL 19 2004
MPWMD

DATE: 26 SEPTEMBER 2001

SUBJECT: AD 01-5/MARY A. BOLAND
SE CORNER MOUNTAIN VIEW AND VIZCAINO
BLOCK 103; LOT 2

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## I. RECOMMENDATION

Adopt the Findings for Denial.

## II. INTRODUCTION/BACKGROUND

On 12 September 2001 the Planning Commission reviewed and denied a request to transfer water from the Unallocated Reserve into the R-1 category for purpose of developing a vacant lot located on the south east corner of Mountain View Avenue and Vizcaino in the R-1 District. The Commission determined that the City's policy and procedure regarding water allocation that was approved by the City Council was in effect the "Law of the City" and agreed with staff's recommendation. The Findings for Denial are attached for consideration and adoption.

CITY OF CARMEL-BY-THE-SEA

DEPARTMENT OF COMMUNITY PLANNING AND BUILDING

FINDINGS FOR DENIAL

AD 01-5/Mary A. Boland
SE Corner Mountain View and Vizcaino
Block 103, Lot 2 26 September 2001

CONSIDERATION: A request to transfer water from the Unallocated Reserve to a lot in the R-1 Single Family Residential District.

FINDINGS OF FACT:

1. Following an exchange of correspondence starting on 13 July 2000 involving the status of the City's exhausted R-1 water allocation category, the City received a request for a water transfer from the Unallocated Reserve to the R-1 category for development of a vacant lot.

2. The subject property is a vacant lot with no prior development history located on the south east corner of Mountain View and Vizcaino.

3. On 13 August 2001 following receipt of a letter specifying the amount of water requested, a "complete letter" was sent to the applicant informing her of the Planning Commission hearing's date.

4. That on 7 September 2001 an agenda and staff report was sent to the applicant informing her of the date, time and location of the meeting in addition to staff's recommendation to the Planning Commission.

5. That on 12 September 2001 the Planning Commission reviewed and denied the request.

6. The applicant's correspondence specifies two justifications for granting her request. First, she alleges that the City has failed to adopt a fair and equitable water allocation policy. Second, she seeks to participate in the "first come-first-served" principle that underlies the allocation system.

FINDINGS FOR DECISION:

**Finding:** The City had adopted a fair and equitable water allocation policy.

**Response:** Water is controlled regionally by the Monterey Peninsula Water Management District (The District). When the District has available water, it allocates this resource among eight member agencies, including Carmel-by-the-Sea. The City's last allocation, from new production out of the Peralta Well, amounted to 11.691 acre feet. When this

water was released in 1993, each City was advised to monitor the resource carefully because it was likely to be the last water released until a major new supply was approved. Carmel-by-the-Sea adopted a new Water Management Plan in 1993. The plan maintained conservation measures from past ordinances and established procedures for a City-wide, internal allocation of the Peralta Water. The water was distributed into the following categories, consistent with the General Plan:

| | | |
|---|---|---|
| 65% | Single-Family Residential | 7.600 Acre Feet |
| 20% | Multi-Family Residential | 2.340 Acre Feet |
| 5% | Commercial | 0.580 Acre Feet |
| 5% | Municipal Projects | 0.580 Acre Feet |
| 5% | Unallocated Reserve | 0.580 Acre Feet |

When a development application is filed the staff determines whether sufficient water remains in the appropriate category to serve the project. If not, the project is denied. If sufficient water remains, staff "pre-commits" (reserves) the water so that the water will be available no matter how long the planning process might take. Once the project is approved, the City authorizes a permanent debit from the allocation and informs the District. If a project is denied or withdrawn during the planning process, the "pre-committed" water rolls back into the allocation category and becomes available to other applicants.

Occasionally, the City and applicant over-estimate the amount of water needed for a project and pre-commits too much. Projects are never built, or that end up using less water than originally reserved, result in water being credited back to the City. Per specific direction from the City Council in Resolution No. 2000-132, this unused water is added to the Unallocated Reserve for distribution now or in the future. This reserve also provides a safety net for any miscalculations of water debits and a potential water source for significant projects proposed in the future that could serve the whole community. When water is to be reallocated, it must be done by Resolution of the City Council at a public hearing and with the advice of the Planning Commission.

**Finding:** The City's first come-first serve system is valid only to the limits of each allocation category.

**Response:** When the City of Carmel-by-the-Sea was allocated water, ordinances were adopted that put in place policies and procedures. In adopting these policies and procedures, the City made several decisions to maximize the benefits derived from its limited allocation of water from the Water District. The City specifically chose not to establish any kind of waiting list. Other jurisdictions had very mixed results with such lists. They often reserved water for people with no immediate need or desire to actually build.

If the City had reserved water for each vacant or underdeveloped lot the amount that would be available for each lot would have been so small as to make construction of a home impractical. Since not everyone could be served, a first come-first served system was put in place.

**Finding:** Allocation of what little water remains in the reserve to a single private property is neither practical nor desirable.

**Response:** In August 1997, the City Council reviewed a request for water transfer for the development of a mixed-use, commercial/residential project. The City Council denied the water transfer based on:

- ❑ The extreme uncertainty over when any new water would become available.
- ❑ A belief that the last available water should be reserved for projects that serve the broader community rather than private interests.
- ❑ A concern that reallocation to a single, private project would open the door to a flood of similar requests.

If one request for reallocation is granted to a single, private project this could open the door to a flood of similar requests. When a water resource is limited, the public interest is better served by projects that benefit a wide range of people than by projects that benefit an individual or a private property. The Unallocated Reserve should be retained by the City until sufficient water becomes available to provide at least minimal development for all vacant, independent lots.

DECISION: A request to transfer water from the Unallocated Reserve to a lot in the R-1 Single Family Residential District is denied.

P.O. Box 5111
Carmel-by-the-Sea, CA 93921
831/624-2486
February 20, 2003

21

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JUL 19 2004
MPWMD

Paul Miller, Publisher
The Carmel Pine Cone
P.O. Box G-1
Carmel-by-the-Sea, CA 93921

RE: Power vs. Water

Dear Mr. Miller:

Thank you for giving us a voice with your superb editorial of January 31st and your informative front-page article in the February 14th issue along with another fine editorial.

I also give credit to the Monterey Peninsula Water Management District in recently printing the figures of water remaining in Carmel-by-the-Sea's "water account." Interestingly enough there remains in this account:

| | | |
|---|---|---|
| PRE-1993 MPWMD Peralta Well Allocation | 1.081 | acre-feet |
| 1993 MPWMD Peralta Well Allocation | 1.883 | " " |
| | 2.964 | " " |

The 1993 allocation to Carmel-by-the-Sea was 11.691 acre-feet. The City established categories and distributions as follows:

| | | |
|---|---|---|
| Single Family Residential (65%) | 7.600 | acre-feet |
| Multi-Family Residential (20%) | 2.340 | " " |
| Commercial (5%) | 0.580 | " " |
| Municipal Projects (5%) | 0.580 | " " |
| Unallocated Reserve (5%) | 0.580 | " " |

Since the Unallocated Reserve has increased, due to the City's overestimates with regard to water required per application, from 0.580 acre-feet (1993) to 1.583 (2000), the original 5% distribution of 0.580 acre-feet should remain in the Unallocated Reserve and the excess, or 1.003 acre-feet should have, according to the City's Allocation Resolution of 1993 been transferred/returned to the original catagory from which it was taken:

| | | |
|---|---|---|
| Unallocated Reserve (5%) | 0.580 | acre-feet |
| Single Family Residential | 1.003 | " " |
| Less Golman Water Transfer | (0.2563) | " " |
| | 0.7467 | " " |

Thus, my application for water to build in 2001 and Jeff Britton's application in 2002 should, according to the first-come, first-served policy been approved! And, if the movers and shakers were and should be concerned about equality and our constitution, a simple wave of their wand could and should release the 1.081 acre-feet remaining in the pre-1993 allocation. Coupled with the acre-feet correctly remaining in the Single Family Residential catagory, 1.828 acre-feet would provide sufficient water to build seven plus homes.

It is incumbent upon our City dads and dolls to release their figures for public observation:

The actual number of unimproved vacant lots remaining with an (1993) allocation of $H_2O$

AND

The number of unimproved vacant lots remaining without an allocation.

Paul Miller, Publisher

RE: Power vs. Water

Barring their cooperation, MPWMD has verifiable information back to 1993 documenting the number of acre-feet debited from the Single Family Residential catagory including names, addresses and parcel numbers.

Once the actual number of vacant lots without an allocation of water is defined and granted their rightful share, the controversary over the deleterious effect on the environment will become a nonissue. Failing that, a moratorium on property taxes should be declared. This was accomplished in the seventies when the owners of lots-of-record were forbidden to build. And if my research serves me correctly, it didn't take long for the situation to be rectified.

My most recent research has uncovered the fact that the Pebble Beach Company is working with the MPWMD to make a new allocation of water available to the local jurisdictions, including Carmel-by-the-Sea. Now, I suspect this is going to be business as usual with our local politicians unless exposed by the media.

It is also my belief, if exposed by the media, the average tax-paying citizen (the common man) in our fair little City will see the injustice being inflicted on those few of us that are left to pay our property taxes and clear our land each year without benefit of property and that it is in direct violation of our constitution. And if the no-water crowd and bureaucrats were not solely caught up with their absolute power, the issue would have been resolved eons ago. "Power tends to corrupt and absolute power corrupts absolutely."

Sincerely,

Mary A. Boland

P.O. Box 5111
Carmel-by-the-Sea,
CA 93921
April 28, 2003

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JUL 19 2004
MPWMD

Stephanie Pintar, Water Demand Manager
Monterey Peninsula Water Management District
5 Harris Court, Bldg. G
P.O. Box 85
Monterey, CA 93942-0085

RE: Vizcaino Vacant Lot-of-Record, APN 010-052-021

Dear Mrs. Pintar:

I have recently reviewed all correspondence with regard to building a home on the above listed parcel for which I have been officially denied. So as not to be redundant, I have enclosed some of the correspondence to support my allegations.

(1) We resided in the southern part of the state and were unaware of the critical water situation and received no notification of the 1993 allocation. My late husband requested water for the project in 1996.

My letter to Brian Roseth, Principal Planner dated January 20, 2001 outlines my plight. Nowhere in his response of April 2, 2001 does he address the issue of my husband's request. However, quite by accident Chip Rerig, Associate Planner in his letter of July 20, 2000 states that the City did not exhaust its residential water allocation until 1997.

(2) I was denied water for the project because my present home on Crespi and the vacant lot on Vizcaino are not contiguous. (Chip Rerig's letter of July 20, 2000.)

Contiguous: Both the Random House and Webster dictionaries define the meaning to be: touching; in contact. In close proximity without actually touching; near. Enclosed you will find a copy of the map showing the two parcels which could not be any closer without actually touching.

(3) I was formally denied water for the project because the City had exhausted its residential water allocation and refused to transfer water from the Unallocated Reserve.

The City has never exhausted its water supply for single-family residential projects. The Unallocated Reserve should have remained at 0.580 acre-feet and the excess, or 1.003 acre-feet should have, according to the City's Allocation Resolution of 1993 been transferred/returned to the original catagory (Single-Family Residential) from which it was taken. Please refer to Carmel-by-the-Sea Municipal Code 17.08.060-A, #6 and my letter to Paul Miller, Publisher of the Carmel Pine Cone dated February 20, 2003.

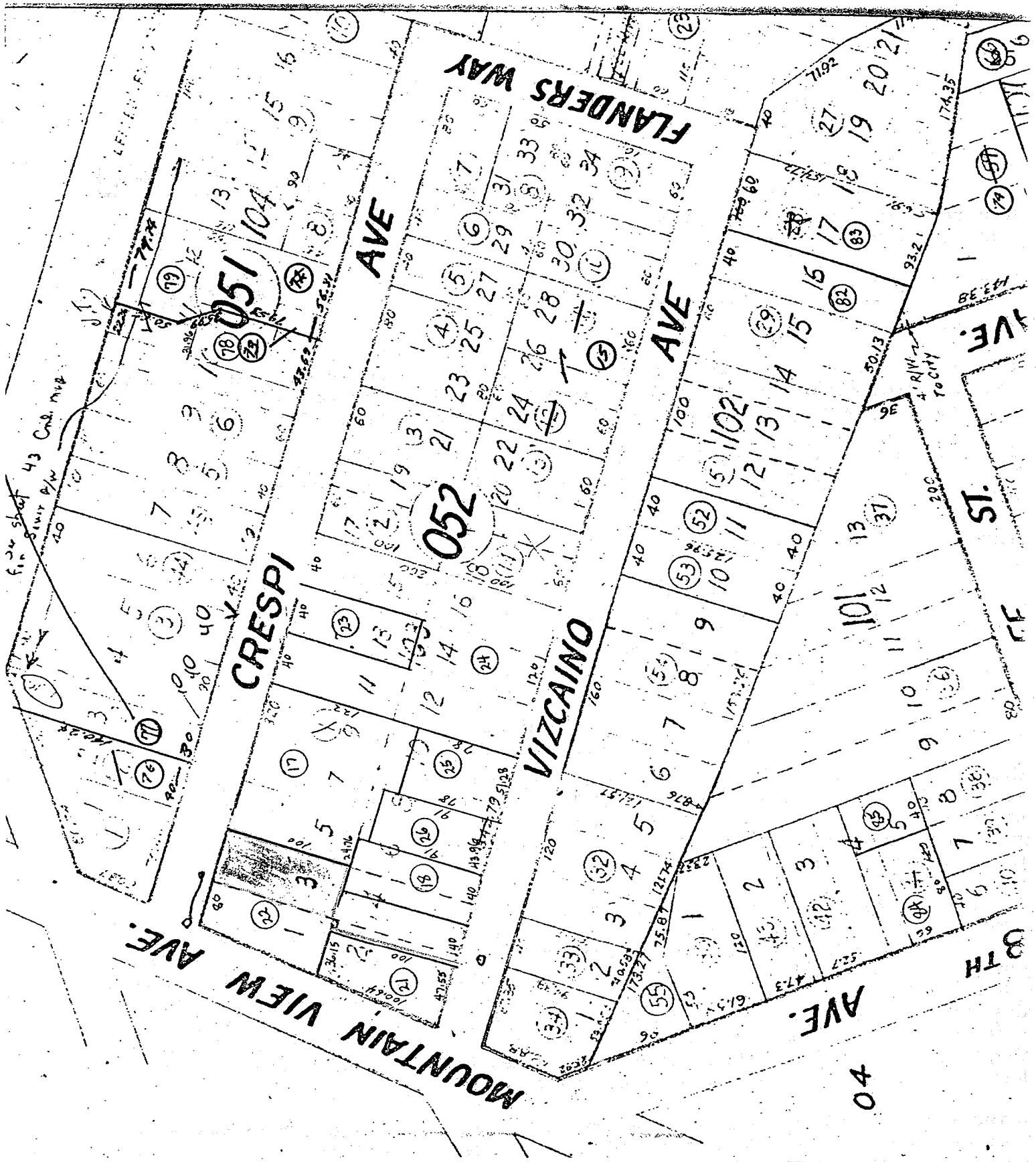
April 3, 2001 I was informed by the Planning Department that twelve lots remained in Carmel-by-the-Sea without water. At present there are probably nine or less. If the City adhered to their Municipal Code there should be sufficient water for all remaining vacant lots to be developed.

Now, seven years later (1996/2003) and having paid property taxes on the Vizcaino lot for over thirty-seven years I am now requesting water from the District to proceed with the building project. Not for any one good reason but for three very good and substantiated reasons.

Sincerely,

Mary A. Boland

cc: Don Hewitt, Executive Producer, "60 Minutes"
Encl: Reference Material



P.O. Box 5111
Carmel-by-the-Sea,
CA 93921-5111
February 9, 2004

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JUL 19 2004
MPWMD

Larry Foy, Director
Monterey Peninsula Water Management District
5 Harris Court, Bldg. G
P.O. Box 85
Monterey, CA 93942-0085

RE: Power vs. Water

Dear Mr. Foy:

I am pleased to learn of your willingness to determine the number of remaining vacant lots-of-record without water. And, at the same time it is incumbent that this figure along with the number of vacant lots with water be made a matter of public record.

Unfortunately, Carmel-by-the-Sea did not have an equitable arrangement in place prior to the 1993 allocation of water. Hopefully you will be able to unscramble and rectify what was a travesty of justice.

Here are some confusing figures:

> September 29, 1979 the number of vacant lots-of-record without water in Carmel-by-the-Sea stood at: TWENTY-ONE.
>
> April 3, 2001 I personally called the Planning and Building Department and the number was: TWELVE.
>
> January 8, 2004 I again called and the number had jumped to: FORTY-FIVE!

History has a habit of repeating itself and if Brian Roseth, Principal Planner has his way it will be business as usual. In 2003 he was quoted as saying: "Making tourist and government needs the top priority for water (if the City ever gets any), instead of residential uses and existing lots-of-record which have long been number one on the City's water priority list."

I often wondered where I fit into this equation. In 1996 my late husband attempted to procure water for the development of our lot-of-record to no avail, even though, by their own admission, the City did not exhaust its residential allocation until 1997. Once the 1993 allocation was consumed by those "in the know," the window of opportunity was slammed shut on the remaining few (8 or 9) of us tax-paying vacant lot owners desirious of building. This so-called water shortage on the Peninsula is a tool by which these politicians, who are answerable to no one, can flex their powerful muscles. Civil rights are being violated and property taxes (without benefit) are being fed to keep these petty, power-hungry politicians alive.

After Roseth's 2003 statement I wrote Senator McPherson urging him not to replace the Monterey Peninsula Water Management District directors with mayors and city council members. Roseth, along with our mayors and city council members have always placed the tourists' considerations above the residents in Carmel-by-the-Sea. I know from where I speak because of my insufferable dealings with this political body for over seven years in attempting to procure $H_2O$ for the development of my small parcel of land, even though there is and was sufficient water in the reserve. And all this, after having paid property taxes for over thirty-seven years!

Larry Foy, Director
Monterey Peninsula Water Management District

Our constitutional form of government deems the realms of public and private to be balanced for fair and equitable policy/law. For a local government to elevate public benefit over and above private rights is neither fair, equitable or in accordance with the Constitution of the United States.

It is long overdue, and as the newly elected director, I urge you to take politics out of this precious natural resource. And in so doing, make necessary preparations to bypass city officials and transfer water directly to the owners of lots-of-record. Otherwise, as was accomplished in the seventies, a moratorium on property taxes is in order.

"Power tends to corrupt and absolute power corrupts absolutely."

Sincerely,

Mary A. Boland

**MONTEREY PENINSULA**
**WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • http://www.mpwmd.dst.ca.us

August 6, 2004

Mary A. Boland
P.O. Box 5111
Carmel-by-the-Sea, CA 93921

Dear Mrs. Boland:

Thank you for your letter of July 17, 2004, and the kind comments about my recent appointment as General Manager.

I appreciate your providing me with correspondence related to your long-standing quest for an allocation of water to develop your Carmel-by-the-Sea parcel. Because of the complexity of the issue detailed in your letter, and my lack of familiarity with the applicable regulations, I've requested pertinent background information from my staff. I will provide you with a more substantive reply as soon as practicable.

Again, thanks for bringing this information to my attention.

Sincerely,

David A. Berger
General Manager

pc: MPWMD Board
Stephanie Pintar

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A Tavani/1 page/8-6-04 letter

NOLAND
HAMERLY
ETIENNE
& HOSS

Attorneys at Law | A PROFESSIONAL CORPORATION

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JUL 19 2004

MPWMD



WWW.NHEH.COM
E-MAIL DETIENNE@NHEH.COM
831-424-1414 EXT. 224
OUR FILE NO. 13422.000



July 19, 2004

Board of Directors
Monterey Peninsula Water Management District
P. O. Box 85
Monterey, CA 93942

Re: In re Proposed Moratorium

Dear Gentlepersons:

I am writing to you in connection with the Moratorium proposed by California American Water Company. The undersigned represents J. Lohr Properties.

In February of 1989, the Monterey Peninsula Water Management District Board of Directors ("the Board") adopted Ordinance 39 which, among other things, allocated water to the J. Lohr Properties Macomber Estates Subdivision for the development of the 78 acre parcel situated in the Pebble Beach forest. The subdivision was allocated 10 acre feet of water per year and 25 connections. The allocation of water was based on the District's water use figure endorsed by the Board at that time.

When J. Lohr Properties became a fiscal sponsor of the reclamation project, per Ordinance 89-21, the Pebble Beach Company entered into an agreement with the Water Management District and paid $987,500 for an irrevocable allocation of the 10 acre feet for the subdivision. This agreement was executed in October of 1989. Funds were contributed by the Pebble Beach Company, J. Lohr Properties, and a third sponsor, the Hester Hyde Griffin Trust, to be utilized for the costs of construction of a 9,000 square foot treatment plant at the then existing CSD sewage treatment plant, and a reclaimed water distribution system consisting of approximately 38,000 feet of distribution pipeline and a steel water storage tank in Del Monte Forest. There was also a 2,500,000 gallon reclaimed water storage tank constructed adjacent to the Poppy Hills Golf Course maintenance yard.

The reclaimed water over the years has been used for the irrigation of the golf courses situated in the Del Monte Forest.

The October, 1989 resolution by the Board approving the CSD/PBCSD water reclamation project provides, among other things, that Pebble Beach Company (PBC), Lohr and the Griffin Trust were selected and approved as the fiscal sponsors for the

reclamation project under Ordinance 39 and that Lohr was specifically designated to receive a water entitlement of 10 acre feet. The water entitlements were to be applied to the land owned, respectively, by PBC, Lohr and the Griffin Trust.

It is the position of J. Lohr Properties that these irrevocable entitlements are not subject to a moratorium, if one is approved.

At this time, there are three lots remaining in the subdivision for which the connections are not yet in place.

We wish to advise the Board that we are adamantly opposed to the Moratorium as to connections for this particular property for the reasons articulated in this letter.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Myron E. Etienne, Jr.

MEE:mrw
cc: Mr. Jerry Lohr
Mr. James Schuett

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JUL 19 2004

MPWMD



**BERG & PARKER LLP**
**Four Embarcadero Center, Suite 1400**
**San Francisco, CA 94111**
**(415) 397-6000**

James M. Berg
ext.202
jmb@bzap.com

July 19, 2004

Monterey Peninsula Water Management District
5 Harris Court, Bldg. G
P.O. Box 85
Monterey, CA 93942

Re: California-American Water Company – Application for Moratorium

To whom it may concern:

We represent the owner ("Owner") of the property located at 3212 17 Mile Drive, Pebble Beach, CA 93953 APN# 008-472-004 (the "Property"). This letter is written in opposition to the water connection moratorium proposed by California-American Water Company ("Cal-Am Co.") to the California Public Utilities Commission ("CPUC").

The Owner opposes the proposed water connection moratorium in general and believes that the moratorium should not be applicable to Owner and the water permit applications associated with the Property for the specific reasons set forth below.

The Owner purchased the Property on April 6, 2004. The Property was a historically significant residential property which included a Crocker residence constructed in 1920. Prior to the Owner's acquisition of the Property, the Monterey Peninsula Water Management District ("MPWMD") issued Water Permits for 76.5 water credits on July 11, 2001 and March 14, 2002, in connection with a proposed remodel of the residence by the previous owner. After the remodeling process had begun, the existing structure on the property burned down in April 2002.

Following the acquisition of the Property, the Owner worked with his architect to develop plans for the construction of a new single-family residence. Plans for the new residence have been developed based upon meetings with the Monterey County planning department and zoning administrator.

The Owner is in the process of applying for water permits for the replacement residence which will be constructed in the same location, will have the same use, and will use the

same amount of water as the original residence located on the Property. No new water hook-ups will be required. Water has been used continuously at the site.

We request that the District act to cause:

1. The CPUC to deny the application by Cal-Am Co. for a water connection moratorium; or

2. In the event that the CPUC approves the application by Cal-Am Co. for a water connection moratorium, that the CPUC specifically exclude the application of the moratorium to Owner and other owners with similar circumstances.

Respectfully submitted,

James M. Berg

925.052 0407bc009

DR. DENVER D. S. DALE

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JUL 19 2004

MPWMD

July 19, 2004

Alvin Edwards, Chairman of the Board
Monterey Peninsula Water Management District
P.O. Box 85
Monterey CA 93942-0085

Mr. Chairman:

I believe The Pebble Beach Company is acting contrary to the spirit of Ordinance 109.

Because Ordinance 109 placed no minimum on the amount of water The Pebble Beach Company is permitted to sell to the owners of Benefited Properties, the company is now free to sell much less water than Ordinance 109 contemplated at much higher prices in order to raise the funds they require to upgrade the reclamation project.

In effect, this has meant that The Pebble Beach Company is now free to maximize their profits from the sales, not by pocketing the cash (Ordinance 109 stipulates that proceeds from the water sales must be kept in escrow), but by retaining more of their original water allocation than was represented in Ordinance 109.

From the start, The Pebble Beach Company has indicated that they would sell up to 175 AF of potable water in order to raise the $22M they need to upgrade the reclamation project. Intuitively, this means that the various stakeholders (and the press) have estimated the cost of the water at approximately $150,000/AF. However, the unfortunate fact is that Ordinance 109 placed no minimum on the amount of water The Pebble Beach Company must sell in order to raise the $22M required to upgrade the reclamation project.

This loophole has given The Pebble Beach Company the opportunity to now focus on maximizing their profit on this transaction (which I believe is contrary to the spirit of Ordinance 109), and which will cost me and others in need of water a great deal of money. Let me explain.

Rather than simply selling the majority of the 175 AF described in Ordinance 109, here is what The Pebble Beach Company is now doing:

1. Talking with the potential buyers of their water;

2. Unofficially proposing a price of "more than $200,000/AF";

3. Gauging buyer interest at these prices, which are obviously much higher than those contemplated by Ordinance 109;

4. Planning to sell the minimum of water needed to meet their funding needs (my guess is that they are planning to sell only about 100 AF, maybe less, at prices in excess of $200,000/AF).

Mr. Chairman, although this is not "cash profiteering" (The Pebble Beach Company keeps none of the cash proceeds of the water sales), it is most certainly "water profiteering", as the higher they can sell their water per AF to desperate landowners, the less of it they need to sell (and so the more water they can retain for possible future sales, potentially at much higher prices).

CARMEL, CALIFORNIA • USA
TELEPHONE: (510) 376 1704 • FACSIMILE: (831) 373 2946

Now that Ordinance 109 is law, The Pebble Beach Company is rather blatant about working to maximize the price they charge for the water – in fact, they had the audacity to inform me recently that I shouldn't care what price I pay for the water, as it will greatly increase the value of my dry lot. And that they are not profiteering on this transaction because they get none of the proceeds. Both of these comments are insulting, and clearly show their sales methods.

The bottom line here is that if The Pebble Beach Company had suggested to the MPWMD, in pursuing Ordinance 109, "The Pebble Beach Company will sell the minimum of our potable water at the maximum price the market will bear in order to fund our reclamation project upgrade", I am certain that Ordinance 109 would never have passed. But that is exactly what The Pebble Beach Company is now doing.

In retrospect, I wish we had all seen this risk earlier – it would have been key to make sure that Ordinance 109 put a floor in the amount of water The Pebble Beach Company could sell, effectively capping the price at around the expected $150,000/AF (equating to about 150 AF). But with no floor in place, and hence no price cap, I would not be surprised if The Pebble Beach Company set the price at well over $200,000/AF, maybe more than $250,000/AF. The sad fact is that their water will sell at almost any price, because dry landowners need it so badly – The Pebble Beach Company knows this, and is unashamedly profiting from that fact.

I can tell you right now that The Pebble Beach Company is absolutely taking advantage of our desperate need for water, and profiting from our pain. I obviously want water for my lot, and I am prepared to pay the $150,000/AF Ordinance 109 intended. But I, for one, will not allow Pebble Beach to take advantage of my predicament, as this is counter to the vision of Ordinance 109. If enough potential buyers are made aware of The Pebble Beach Company's ploy, perhaps they will be forced to sell their water closer to the price with which they seduced the MPWMD into passing Ordinance 109.

Or perhaps Ordinance 109 can be revised to include either a minimum amount of water to be sold by The Pebble Beach Company, or a price cap in line with the expectations of those who supported and passed the ordinance.

Thank you for your time.

Sincerely,

Dr. Denver D. S. Dale

cc: David Berger, MPWMD

Jack Kidder, Del Monte Forest Property Owners

Ted R. Hunter, Carl E. Nielsen, Concerned Residents of Pebble Beach & Monterey County

CARMEL, CALIFORNIA • USA
TELEPHONE: (510) 376 1704 • FACSIMILE: (831) 373 2946

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JUL 21 2004

MPWMD

P.O. Box 5111
Carmel-by-the-Sea,
CA 93921
831/624-2486
July 19, 2004

Monterey County Tax Assessor
Appeals Board
P.O. Box 891
Salinas, CA 93902-0891

RE: APN 010-052-021

Gentlemen:

Your attention is called to the enclosed correspondence which outlines the basis for my request to be relieved from all future property taxes (which was accomplished in the seventies) on the above listed parcel. And that property tax monies paid beginning with 1993 through 2003 be refunded until my position with this deplorable water situation is resolved and the building moratorium is lifted.

I have labored long and hard to try and understand why my late husband and I have been unfairly targeted for such unwarranted and deplorable discrimination which has resulted in much consternation and financial loss.

Sincerely,

Mary A. Boland

✓cc: David Berger, General Manager
Monterey Peninsula Water Management District

bcc: MPWMD Board of Directors



CITY OF PACIFIC GROVE
300 FOREST AVENUE
PACIFIC GROVE, CALIFORNIA 93950
TELEPHONE (831) 648-3100
FAX (831) 657-9361

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JUL 26 2004
MPWMD

July 21, 2004

Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear Mr. Peevey,

The Commission's recent approval of a temporary rate increase for conservation and instruction to develop a temporary moratorium on all new water connections was made without regard to reality on the Monterey Peninsula. Several factors need to be reviewed before the PUC take any additional actions to "solve" the water situation on the Monterey Peninsula.

- Both the rate increase and the moratorium have ignored the fact that Cal-Am has been unable to account for 1,475 acre feet of water, as noted in a letter to the Commission from the Monterey Peninsula Water Management District (MPWMD) of June 23, 2004. A priority should be placed on Cal-Am to reduce this system leakage.

- You and Cal-Am assume that a moratorium on new connections is a necessary next step to solve the water issues of the Peninsula. However, Ordinance 92 of the MPWMD outlines seven stages of water conservation indicating that only at Stage 5 would a moratorium be enacted. We are currently at Stage 3.

- Cal-Am's request for rate increases and potential moratoria are based on State Order 95-10, a nine year old administrative ruling that assumes that water is not available in the Carmel River basin for use by the Monterey Peninsula citizenry. This is an artificial water crises created by a State agency that has thrown the Monterey Peninsula into growth control to a point of near stagnation. As you may be aware, each land use agency works within an allocation of water that was developed in conjunction with 95-10. The City of Pacific Grove has judiciously guarded that allocation for use of existing citizens and the trickle of new homes and businesses that we see on existing lots of record. During the last ten years our

community has been reduced in size from 17,500 to 15,500 residents and our unallocated water bank is less that two acre feet. When discussing housing allocations with the State Department of Housing and Committee Development about our fair share of future housing needs, we cannot anticipate having a sufficient water allocation to allow the 248 new units of low and moderate housing that is required.

- Recent projects within the City include a 48-unit Senior Housing project, an expansion to the existing golf course clubhouse, a community room addition to the city owned Carnegie Library, and an expansion of the Meals-on-Wheels facility, all of which had to acquire water credits either by transfer or reduction in the City allocation. The clubhouse, community room, and Meals-on-Wheels facility will not require additional water use, but did require additional allocations based on additional square footage.

- Our City, and every other public jurisdiction on the Monterey Peninsula have taken extreme and costly actions to reduce water usage. Our public golf course has installed an irrigation system that allows for complete control of watering based on weather, time of day, rates of absorption and evaporation, and course use. This system cost more than $1 million to install. This modern system resulted in a reduction in the course water allocation from 108 annual acre feet to 101 acre feet. However, through a judicious use of the system the course has been able to reduce it ACTUAL use to an average below 90 annual acre feet.

- We have taken similar measures, although not as costly, in each of the 17 parks of the City.

- Proposed water surcharge rates that penalize city public services that are utilized by residents and visitors alike, are not likely to provide the conservation envisioned by Cal-Am or the PUC. We have already reduced our use to the minimum required to maintain our public services.

It is disconcerting that a private water company located in an area also served by the unique Water Management District can go directly to the PUC for major changes in their service levels such as cost increases and moratoria, without first gaining approval of the local water management district. It is also a concern that Cal-Am and the PUC would ignore local regulations of the water district as it relates to water conservation, connection moratoria, and water rationing.

Finally, I would submit that future decisions concerning water allocations be made at the local level in a more timely manner. The Order for Emergency Authority approved by the Commission in response to Application 04-06-020 shows an extreme lack of foresight and planning on the part of Cal-Am and the realistic situation where the PUC was asked to act suddenly without a full review of the facts and realities of the situation on the Monterey Peninsula.

Thank you for your careful review and attention to this matter as Cal-Am comes before you in the future.

Sincerely,

Morris G. Fisher
Mayor

4

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

July 28, 2004

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JUL 28 2004

MPWMD

Via Facsimile 644-9560
Alvin Edwards, Chair, and Members of the Board of Directors
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

Re: Negative Declaration, MPWMD Ordinance No. 117
Re-establishing ministerial approvals of water credit transfers

Dear Chair Edwards and Board Members:

On June 24, 2004, I sent you a letter on behalf of The Open Monterey Project objecting to the proposed Negative Declaration for Ordinance 117, and urging you to complete an Environmental Impact Report to address all the impacts.

This letter is to advise you that my clients Patricia Bernardi and Save Our Carmel River join in the objections made in the June 24 letter.

Very truly yours,

Michael W. Stamp

**HOPE - Helping Our Peninsula's Environment**
Box 1495, Carmel, CA 93921
831/ 624-6500
Info@1hope.org
www.1hope.org



Rules & Regulation Committee

Monday, August 02, 2004

**Rule XX must retain Mandatory Revocation as Enforcement**

Hello Rules & Regulation Committee,

While we generally support the concept of proposed rule "XX", we are concerned that mandatory removal of illegal systems may get dropped or made meaningless.

Anyone who creates a water distribution system without a permit that everyone else must obtain is illegally obtaining water. If there is no threat of removal, wealthy builders/developers will just risk the fine and then ***only if caught*** will pay a meaningless fine.

We strongly support meaningful and mandatory removal of illegal systems.

With our best wishes,

David Dilworth, Executive Director
Cc: Cal-Am
Monterey Herald
Sierra Club

RECEIVED
AUG - 2 2004
MPWMD
3:00 pm
Silva

August 4, 2004

RECEIVED
AUG - 6 2004
MPWMD

HOUSING AUTHORITY
COUNTY OF MONTEREY

CENTRAL OFFICE:
123 RICO ST.
SALINAS, CA 93907
831-424-2892
831-649-1541
FAX 831-424-9153
TDD 831-754-2951

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

Mr. Berger:

The Housing Authority of the County of Monterey, on behalf of our Rippling River community located at 53 East Carmel Valley Road, has recently submitted requests to be placed on the Board of Director's Agenda to consider a waiver, permissible under the Health and Safety Code 34500-34521, of the Monterey Peninsula Water Management District's Ordinance prohibiting certain water transfers. We understand that there has been several recent changes in the General Manager's position and would like to ensure, through this letter and the attached historical letters, that this issue is duly addressed by your Board of Directors.

Our latest letter dated June 21, 2004 has been received by the General Manager's office, but we have not yet received a response. Your attention to this matter and our placement on the Board of Director's agenda is greatly appreciated. We would also like to be kept informed of any workshops, discussions or decisions related to water transfer issues. Please contact me with any questions or concerns.

Sincerely,

Starla Warren
Director of Development

CC. Director Potter
Scott Hennessey, Monterey County Planning and Building Inspection Department

HOUSING AUTHORITY
COUNTY OF MONTEREY

CENTRAL OFFICE:
123 RICO ST.
SALINAS, CA 93907
831-424-2892
831-649-1541
FAX 831-424-9153
TDD 831-754-2951

June 21, 2004

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

Ms. Farina:

Thank you for your response to our 5/19/04 letter. We understand the District's position with the regard to water credit transfers. However, we are asking for Board consideration under the Health & Safety Code 34500-34521 where in it states:

**34500(b):**
It is a proper public purpose for any state public body to aid any housing authority operating within it's boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such an authority or projects

**34506.** "State public body" means any city, county, borough, commission, district, authority, or other subdivision or public body of the State

**34513**: A state public body may"
(a) Plan or replan, zone or rezone any part of it's territory
(b) Make exceptions to building regulations and **ordinances** to the extent that such exceptions do not conflict with the provisions of the State Housing Law, Part 1.5....

We again, respectfully request to be placed on the District's agenda for consideration under this Statute. Specifically, for the Board to consider a project waiver under the ordinance that prohibits water transfers. We look forward to hearing from you.

Sincerely,

Starla Warren
Director of Development

*Mission Statement:*
*To provide, administer, and encourage quality affordable housing and related services to eligible residents of Monterey County.*

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

June 14, 2004

Ms. Starla Warren, Director of Housing Development
Housing Authority of the County of Monterey
123 Rico Street
Salinas, California 93907

**Subject: Rippling River, Carmel Valley**

Dear Ms. Warren:

This letter responds to the Housing Authority's May 19, 2004 letter to the District regarding a determination as to whether the water resources at the existing Rippling River site may be relocated along with the residents to their proposed new home at the former Carmel Valley Airport site.

The District responded to the Notice of Preparation of a Draft EIR/EA for Rippling River Relocation and Demolition Project on May 14, 2004. A copy is enclosed for your convenience. In the enclosed response, the District states that Water Use Credits may only be transferred from an existing commercial use (e.g. non-residential) to an expanding commercial use or to a jurisdiction's water allocation. Rippling River is a residential project and is ineligible to transfer Water Use Credits without a change in District law.

Unfortunately, there is no longer a District Reserve Allocation available for community benefit projects. On February 23, 1995, the District's Board of Directors adopted Ordinance No. 73 repealing the District Reserve Allocation. With that action, the District Reserve was eliminated and the remaining uncommitted portion of the allocation was evenly distributed to the jurisdictions.

The District urges you to further discuss your water needs with the Monterey County Water Resources Agency and with the Monterey County Planning and Building Inspection Department. The Monterey County Water Resources Agency manages the County's water allocation. Regrettably, water that once was available to community benefit projects is no longer in an allocation controlled by the District. This action was taken at the request of the jurisdictions. Since the remaining District Reserve Allocation was split among the jurisdictions, the jurisdictions are now the appropriate gatekeepers for a request for water for a community benefit project.

Sincerely yours,

Fran Farina

Fran Farina
General Manager

cc: Director Potter

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HOUSING AUTHORITY
COUNTY OF MONTEREY

CENTRAL OFFICE:
123 RICO ST.
SALINAS, CA 93907
831-424-2892
831-649-1541
FAX 831-424-9153
TDD 831-754-2951

May 19, 2004

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

To Ms. Farina:

The Housing Authority of the County of Monterey has been providing affordable housing throughout the County since 1984. The Rippling River Housing complex at 53 East Carmel Valley Road is designated as "frail, elderly, and handicapped" populations. This 79-unit complex offers residents a community center, craft room, library and numerous other community facilities and programs.

Due to original design and construction features and aging infrastructure, Rippling River has been deteriorating to a point which is becoming unsafe and unsanitary for its residents. The Housing Authority has been working with the residents to maintain the facility in operational order but the useful life of this property is coming to a close. In an attempt to minimize the impact on the residents, we are proposing a "relocation" facility concept that will allow the residents to move directly into a new facility without the emotional distress associated with typical relocation plans that have the resident moving several times prior to completion of a new facility. As a solution, the Housing Authority has proposed to rebuild a replacement community at the nearby Carmel Valley Airport Site which will accommodate the special needs of the residents and allow them to continue living together in their community of Carmel Village.

Conceptual plans have been prepared for the new 80-unit Rippling River development at the former Carmel Valley Airport site. A land trust would be created for the vacant Rippling River site once the new development is completed, recognizing the limited water availability that would remain. The new facility will be designed utilizing the latest technologies in water conservation including the use of reclaimed water for irrigation. An assessment of the environmental impacts in accordance with the California Environmental Quality Act and the National Environmental Protection Act has commenced for the proposed project. The Housing Authority and Property Owner of Record have been in negotiations to discuss terms for the sale of the former Carmel Valley Airport site but have reached an impasse that may be overcome. In the event that we cannot bridge the impasse, the Housing Authority Board of Commissioners has adopted Resolution 2236 which states that the Board will conduct a public hearing to

consider the use of eminent domain should the pending negotiations to purchase the site prove to be unsuccessful.

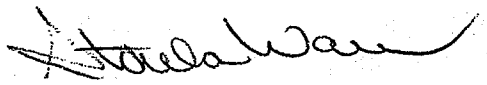
While we understand that the County's approval will also be necessary, we are unlikely to receive that unless the Water Board is supportive of our request to relocate the water with the residents. Our recent water studies show that Rippling River uses twice as much water as is needed for a site of its size. It would appear that we would be able to leave enough water at the old site for development when infrastructure issues are resolved in the Carmel Valley Village area (i.e. roadways, sewer line, etc).

Under the Health & Safety Code 34501, there are provisions for providing special consideration to Housing Authority projects. (See attached legal opinion from Fenton & Keller). We are hoping that the Water Board would consider entering into a Housing Cooperation Agreement similar to the one that the County entered into for the original development of Rippling River. (See enclosed copy of the Housing Cooperation Agreement).

We respectfully request to be added to your agenda for the June 21, 2004 Board of Directors meeting to consider the adoption of a cooperation agreement and to determine whether the water resources at the existing Rippling River site may be relocated along with the residents to their proposed new home at the former Carmel Valley Airport site.

We understand the important role of the Water Management District in managing the water resources of the Monterey Peninsula and are looking forward to discussing before the Board this integral piece necessary to allow the residents of Rippling River to continue to live in their community of Carmel Valley at a facility that can provide the necessary housing and community services and utilities that they deserve.
The Housing Authority's primary goals are to keep the residents together in the community that they call home while providing a long-term viable housing solution.
Should you have any questions please feel free to call me at 831.775.5016.

Sincerely,



Starla Warren
Director of Housing Development
Housing Authority of the County of Monterey

CC: Jim Nakashima, Housing Authority of the County of Monterey
Scott Hennessy, Monterey County Planning and Building Inspection Department

## Project Information

### Applicant
Housing Authority of the County of Monterey
Agent: Starla Warren, Director of Housing Development
123 Rico Street Salinas, CA 93907
831.775.5016

### Future Rippling River Property
**Site:** Former Carmel Valley Airport Site
**Assessor's Parcel Number:** 187-502-001, 187-512-017, 187-512-018, 187-512-014, 187-521-014, 187-531-015
**Property Owner of Record:** Del Fino Trust

**Site Control:** The Housing Authority and Property Owner of Record are continuing to discuss terms for the sale of the former Carmel Valley Airport site. The Housing Authority Board of Commissioners has adopted Resolution 2236 which states that the Board will conduct a public hearing to consider the use of eminent domain should the pending negotiations to purchase the site prove to be unsuccessful.

**Proposed Project:** The Housing Authority proposes to rebuild the Rippling River Housing Complex at the former Carmel Valley Airport Site. The new complex would contain 80 residential units for the frail, elderly and handicapped. Additional facilities would include a crafts room, community center, and walking trails.

**Anticipated Future Water Usage:** 8.0 AFY
Water usage at the new Rippling River facility will be considerably less than that of the existing facility. The existing property's structural, mechanical and utility infrastructure has become outdated and operationally inefficient. The new property will be designed with advanced water saving technologies including low-flow fixtures and reclaimed water will be used for irrigation. The anticipated future water usage of 8.0 AFY was calculated using the attached MPWMD formula. Conservative fixture types and amounts were used for this preliminary calculation. The actual number of fixtures and their water usage may be less than indicated and only the actual necessary water usage programmed for the new Rippling River facility would be requested for relocation.

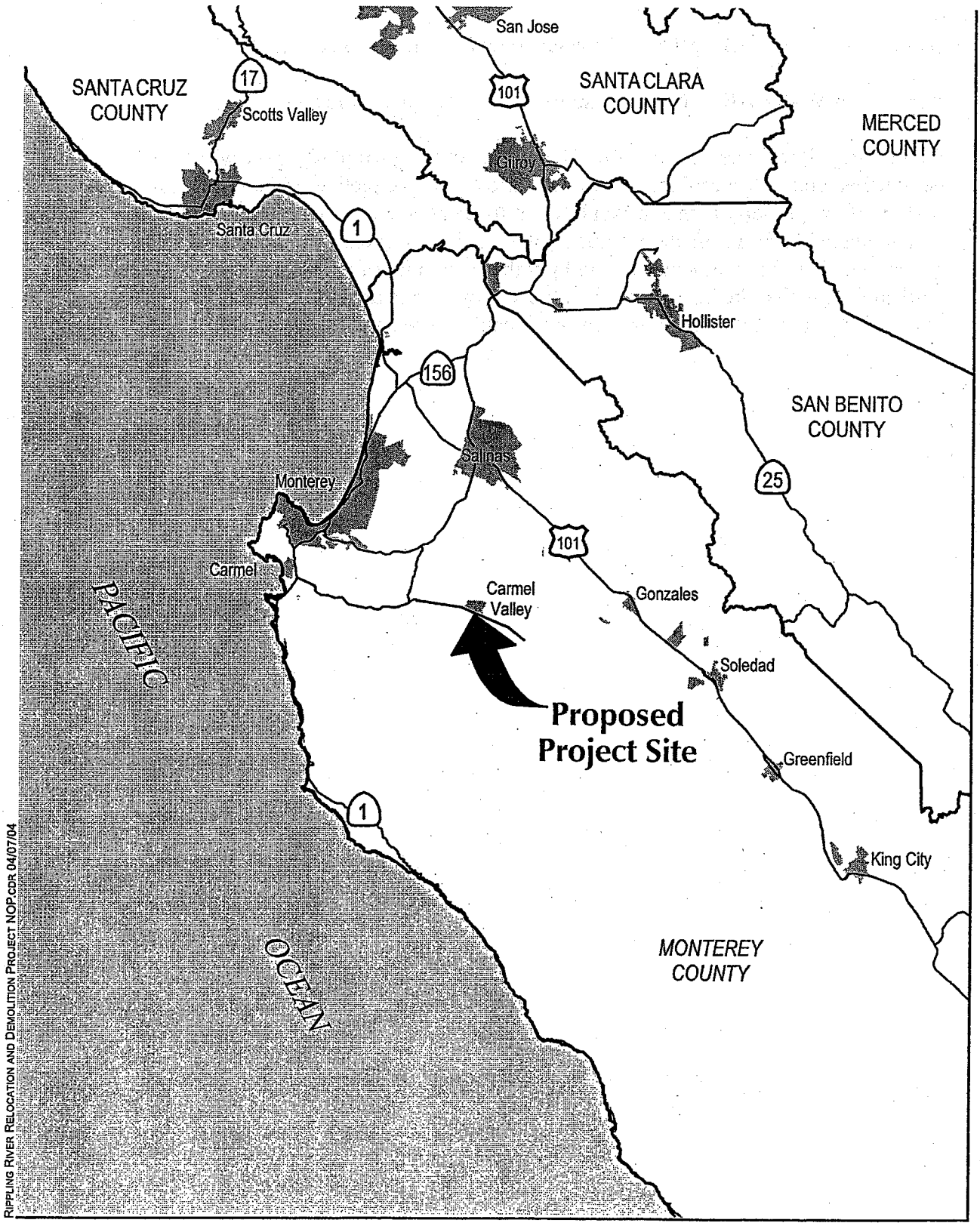
### Existing Rippling River Property
**Property Address:** 53 East Carmel Valley Road
**Assessor's Parcel Number**: 189-541-02
**Property Owner of Record**: Housing Authority of the County of Monterey

**Amount of Water Usage:** 15.7 AFY or 14,000 GPD This figure is the average annual usage at the existing Rippling River site for domestic and landscaping use based on a review the 1997-2002 Cal Am billings.

**Amount of Water Allocation to be relocated with the Tenants**: 8.0 AFY

**Amount of Water Allocation to remain for future use on the site**: 7.7 AFY

**Remaining Water Uses on the Site:** None. The existing Rippling River will be demolished and no water fixtures will be in use at the completion of demolition. A portion of the property at the bottom of the hillside adjacent to Del El Rio Road will remain available for future development and/or sale recognizing the remaining water allocation. The Housing Authority will put the remainder of the property into a land trust until such time that the infrastructure in the Valley area is upgraded, with the acknowledgment of the remaining water allocation to remain on site.




RIPPLING RIVER RELOCATION AND DEMOLITION PROJECT NOP.CDR 04/07/04

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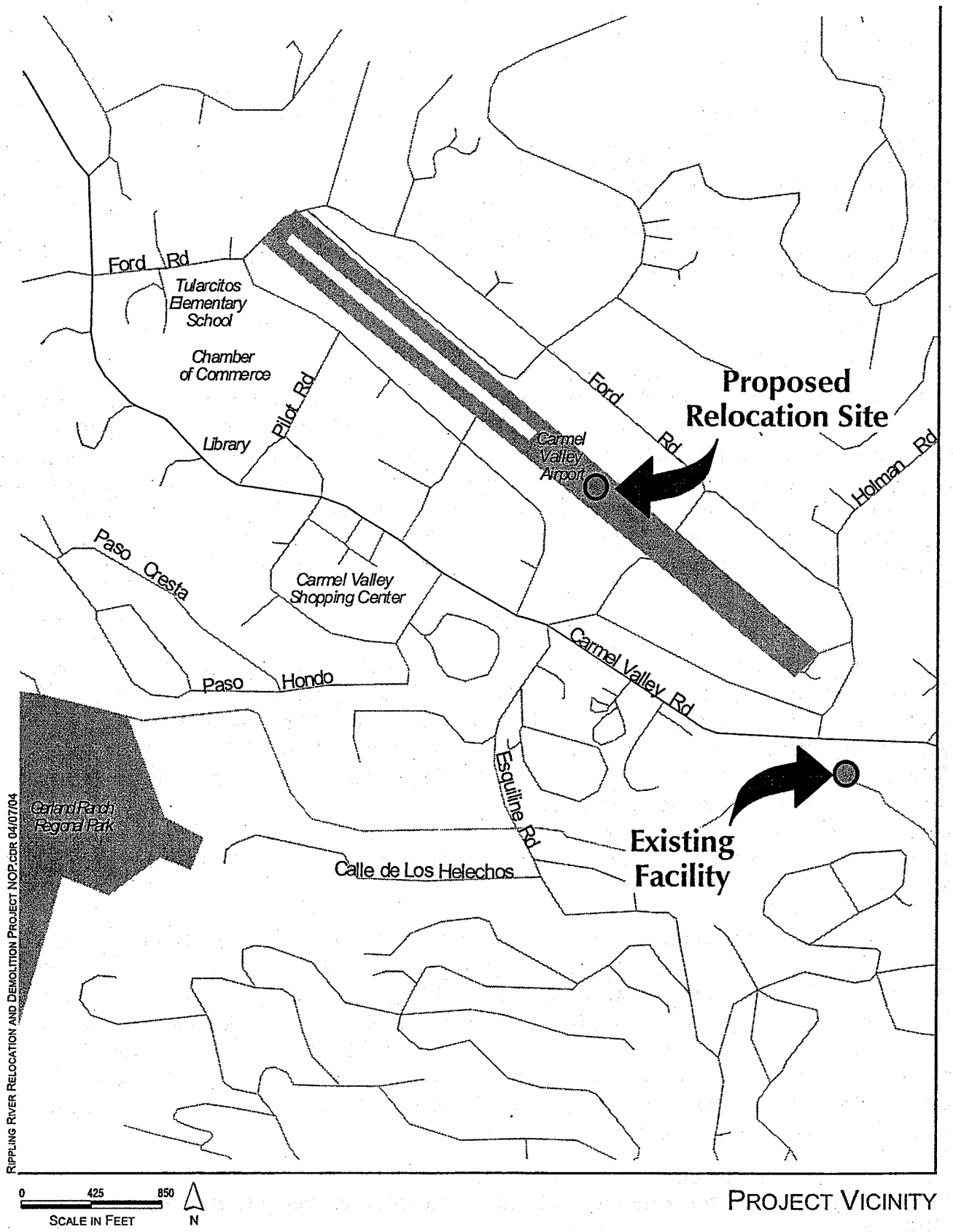
SCALE IN MILES

N

REGIONAL LOCATION

PMC
PACIFIC MUNICIPAL CONSULTANTS




RIPPLING RIVER RELOCATION AND DEMOLITION PROJECT NOP.CDR 04/07/04

PROJECT VICINITY

PMC
PACIFIC MUNICIPAL CONSULTANTS

FENTON & KELLER
A PROFESSIONAL CORPORATION

# MEMORANDUM

TO: Starla Warren FILE NO.: 31858.28541
FROM: David C. Sweigert
DATE: September 3, 2003
RE: Housing Cooperation Law (Rippling River Project)

## I. INTRODUCTION

We have been asked by the Housing Authority of the County of Monterey ("HACM") to review the Housing Cooperation Law (Health & Saf. Code §34500 et seq.)[1] to determine whether features of that law might be advantageous to HACM in achieving its objectives to provide affordable housing opportunities in Monterey County, including replacing the Rippling River Project on the location of the former Carmel Valley Airport. This memorandum discusses our conclusions.

## II. DISCUSSION

The Housing Cooperation Law was enacted in order to qualify local housing authorities in California for federal funding under the United States Housing Act (42 U.S.C.A. §§1437-1437z-7, hereinafter "Federal Act"). (Housing Authority City of Los Angeles v. City of Los Angeles (1952) 38 Cal.2d 853, 861.) The Federal Act prohibits federal loans for low-income housing projects (other than preliminary loans for surveys and planning) "unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by [the Federal Act]." (42 U.S.C.A. §1437c(e)(2).)

The Housing Cooperation Law authorizes "any state public body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein." (§34501(b).) A "state public body" is defined as "any city, county, borough, commission, district, authority, or other subdivision of a public body of the State." (§34506.) The Housing Cooperation Law authorizes a state public body, acting through its governing body, to exercise a variety of enumerated powers "upon such terms and with or without consideration, as it may determine." (§34509.)

[1] All subsequent statutory references are to the Health and Safety Code unless otherwise indicated.

The powers of the County of Monterey ("County") and other state public bodies under the Housing Cooperation Law, include the authority to:

1. Dedicate, sell, convey, or lease any of its property to a housing authority (§34510);

2. Furnish parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works to or in connection with housing projects (§34511);

3. Furnish, dedicate, close, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other facility to or in connection with housing projects (§34512);

4. Plan or replan, zone or rezone any part of its territory (§34513(a));

5. Make certain exceptions to building regulations and ordinances (§34513(b);

6. Change city or county maps (§34514);

7. Enter into agreements with the housing authority or the federal government respecting action to be taken pursuant to the Housing Cooperation Law (§34515);

8. Do anything necessary and convenient to aid and cooperate in the planning, undertaking, construction, or operation of housing project (§34516(a));

9. Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of the bonds (§34516(b));

10. Enter into leases or installment contracts to aid and cooperate with the housing authority to finance mobile homes and mobile home parks (§34516(c)).[2]

In exercising any powers granted under the Housing Cooperation Law, the County and other state public bodies "may incur the entire expense of any public improvements made by it." (§34518.) A state public body may make any sale, conveyance, lease, or agreement, within its powers under the Housing Cooperation Law "without appraisal, public notice, advertisement, or public bidding." (Id.) However, a state public body must hold a public hearing before entering into a cooperation agreement and notice of the hearing must be published pursuant to Government Code section 6066 prior to the date of the hearing.

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[2] §§34510-34516.

In addition to the foregoing powers, a state public body may contract with HACM regarding compensation of the state public body for "improvements, services, and facilities to be furnished by [the state public body] for the benefit of the housing project." (§34519.) A state public body may also lend or donate money to HACM, but HACM must reimburse the county for loans made to HACM. (§34520.) The exercise by a state public body of the powers granted in the Housing Cooperation Law may be authorized by a resolution adopted by a simple majority of the governing body. (§34521)

## III. ANALYSIS, SUMMARY AND CONCLUSION

The Housing Cooperation Law provides opportunities for HACM, assuming cooperation from the state public body such as the County and local cities. The definition of state public body also appears to include the Monterey Peninsula Water Management District ("MPWMD"). Accordingly, either the County or MPWMD could enter into agreements with HACM to facilitate housing authority development projects. In addition, the County and MPWMD can make exceptions to ordinances and regulations to benefit HACM housing projects. For example, a cooperative MPWMD could potentially modify its regulations with respect to water connections and water systems for the benefit of the relocated Rippling River Project.

Another possible benefit of the Housing Cooperation Law is the fact that the actions of governing bodies of state public bodies pursuant to the Housing Cooperation Law are generally not subject to referendum. (See Lockhart v. Bakersfield (1954) 123 Cal.App.2d 728.) In Lockhart, the court held that a city's action in rezoning, by resolution, one part of an area was valid and not subject to referendum. (See also Housing Authority of City of Eureka v. Superior Court (1950) 35 Cal.2d 550.)

With the cooperation of the County and/or MPWMD, some significant obstacles to the relocation of the Rippling River Project and other housing authority development projects could potentially be removed through the use of the Housing Cooperation Law. However, the Housing Cooperation Law does not appear to afford HACM any unilateral power to circumvent those obstacles.

Presumably, some form of cooperation agreement exists between the County and HACM, given that fact that such agreement is a prerequisite to the availability of federal funds for housing authority development projects in the County.[3] It is recommended that HACM review its files to determine the existence of any prior cooperation agreement and that its terms be carefully reviewed. In addition, HACM should consider approaching the County and/or MPWMD to determine whether either state public body is willing to enter into a cooperation agreement to facilitate the relocation of the Rippling River Project and to create other affordable housing opportunities in Monterey County.

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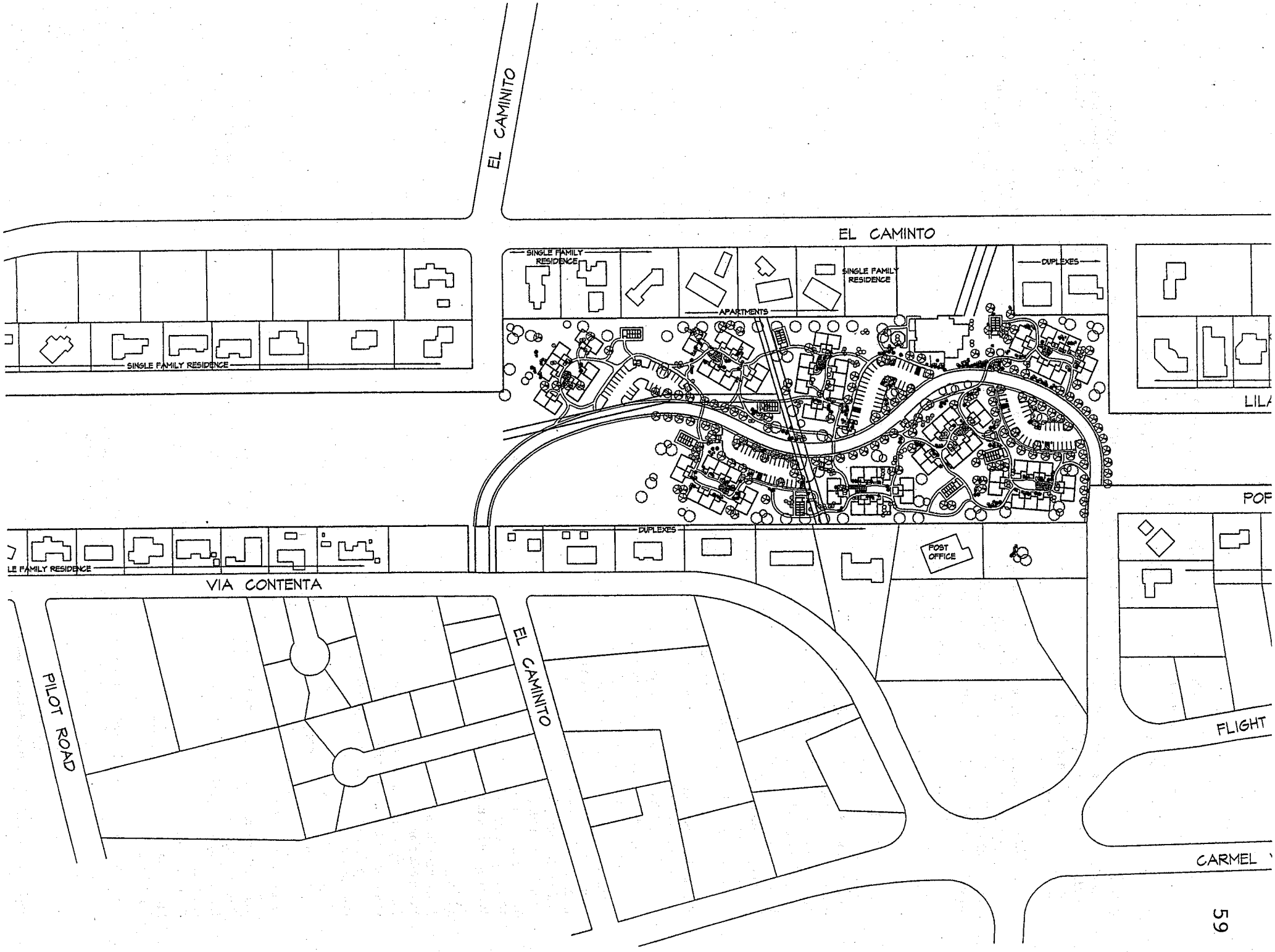
EL CAMINITO
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VIA CONTENTA
PILOT ROAD
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FLIGHT
CARMEL

# Monterey Peninsula Water Management District

5 Harris Court, Bldg. G - P.O. Box 85 - Monterey, CA 93942-0085 - (831) 658-5601 - Fax (831) 644-9558

## CALCULATING WATER PERMIT FEES FOR NEW CONNECTIONS

Effective March 1, 2004, the Monterey Peninsula Water Management District (MPWMD) will be using the following fixture unit values to assess fees and to debit water for the water permit issued within the Cal-Am and Seaside Municipal water systems. Fees for water permits for all other water systems are determined by using the table below, and multiplying that number by 0.1867. Fees are related to the projected water usage and the need to finance new water supply projects. Inquiries related to fee calculations may be made to the District's Permit Office at (831) 658-5601.

Using Table I, the water permit fees are assessed on the number of water-using fixtures and landscaping on the property, multiplied by a fixture unit value, which is then multiplied by a dollar value per fixture unit. "Fixtures" are simply those devices that use water in the home-sinks, bathtubs, dishwashers, toilets, etc. Hot water heaters and most outdoor water fixtures are not included. The "unit value" is a rating based on the Uniform Plumbing Code and appears below:

**TABLE I: RESIDENTIAL FIXTURE UNIT COUNT**
**(Revised February 19, 2004 per Ordinance 111)**

| TYPE OF FIXTURE | NO. OF FIXTURES | | FIXTURE UNIT VALUE | | FIXTURE UNIT COUNT |
|---|---|---|---|---|---|
| Washbasin (lavatory sink), each | 88 | x | 1 unit | = | 88 |
| Two washbasins in the Master Bathroom | | x | 1 unit | = | |
| Toilet, ultra low-flow (1.6 gallons-per-flush) | 88 | x | 1.7 | = | 149.6 |
| Toilet, ultra low-flow (1.0 gallon-per-flush)* | | x | 1.3 | = | |
| Toilet, ultra low-flow (0.5 gallon-per-flush)* | | x | 1.0 | = | |
| Urinal (1.0 gallon-per-flush) | 4 | x | 1 | = | 4 |
| Urinal (0.5 gallon-per-flush) | | x | 0.5 | = | |
| Waterless urinal* | | x | 0 | = | |
| Masterbath (one per site): Tub & separate shower | | x | 3 | = | |
| Large bathtub (may have showerhead above) | 80 | x | 3 | = | 240 |
| Standard bathtub (may have showerhead above) | | x | 2 | = | |
| Shower, separate stall | | x | 2 | = | |
| Shower, each additional fixture: (includes additional showerheads, rain bars, body spray nozzles, etc.) | | x | 2 | = | |
| Shower system or custom shower (varies per specs) | | x | | = | |
| Kitchen sink (with optional dishwasher) | 82 | x | 2 | = | 164 |
| Kitchen sink with ultra-low consumption dishwasher* | | x | 1.5 | = | |
| Dishwasher, each additional (with optional sink) | | x | 2 | = | |
| Dishwasher, ultra-low consumption (with opt. sink)* | | x | 1.5 | = | |
| Laundry sink/utility sink (one per residential site) | | x | 2 | = | |
| Washing machine | 80 | x | 2 | = | 160 |
| Washing machine, ultra-low (18 gals. max. per cycle)* | | x | 1 | = | |
| Washing machine, ultra-low (28 gals. max. per cycle)* | | x | 1.5 | = | |
| Bidet | | x | 2 | = | |
| Bar sink | | x | 1 | = | |
| Entertainment sink | | x | 1 | = | |
| Vegetable sink | | x | 1 | = | |
| Swimming pool (each 100 sq-ft of pool surface) | | x | 1 | = | |
| Outdoor water uses 50% total interior fixture units (new connection only – Lot = 10,000 sq-ft or less) | | x | | = | |
| Outdoor water uses 50% total interior fixture units, (new connection only – Lot exceeding 10,000 sq-ft must include water budget) | | x | | = | |
| **TOTAL FIXTURE UNIT COUNT** | | | | = | **805.60** |

***Requires Deed Restriction***

The total number of fixture units, including landscaping, is then multiplied by a dollar amount as established by the MPWMD. As of July 1, 2003, this amount is $204.15 for each fixture unit. In addition to the connection charge, each applicant must pay an administrative processing fee as follows: single family or duplex $150 per unit; multi-family dwelling of 10 units or less - $250; more than 10 units - $500 per structure.

Connection Charge _____ Total Fixture Count 805.60 x 0.01= 8.056 Acre-Feet of Water Needed

Processing Fee _____

**Total Fees** _____

**NOTE: All residential <u>new construction</u> must meet the following District requirements: -**

- Toilets must be designed to use not more than 1.6 gallons -per-flush
- Showerheads must flow at no more than 2.5 gallons -per-minute
- Faucets must flow at no more than 2.2 gallons -per-minute
- On-demand hot water system (instant -access)
- Drip irrigation where appropriate

# COOPERATION AGREEMENT

This Agreement entered into this _____ day of _____, 19____, by and between HOUSING AUTHORITY OF THE COUNTY OF MONTEREY (herein called the "Local Authority" or "LHA"), a Public Housing Agency or PHA as defined in the U.S. Housing Act of 1937, as amended and THE COUNTY OF MONTEREY, a political subdivision of the State of California, (herein called the "Municipality"), WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the parties hereto do agree as follows:

1. Whenever used in this Agreement:

   (a) The term "Project" shall mean any low-income housing hereafter developed or acquired by the Local Authority with financial assistance of the United States of America acting through the Secretary of Housing and Urban Development (herein called the "Government"); excluding, however, any low-income housing project covered by any contract for loans and annual contributions entered into between the Local Authority and the Government, or its predecessor agencies, prior to the date of this Agreement. Further the term "Project" means a "low rent housing project" as that term is used in Article XXXIV of the Constitution of the State of California.

   (b) The term "Taxing Body" shall mean the State or any political subdivision or taxing unit thereof in which a Project is situated and which would have authority to assess or levy real or personal property taxes or to certify such taxes to a taxing body or public officer to be levied for its use and benefit with respect to a Project if it were not exempt from taxation.

   (c) The term "Shelter Rent" shall mean the total of all charges to all tenants of a Project for dwelling rents and non-dwelling rents (excluding all other income of such Project), less the cost to the Local Authority of all dwelling and non-dwelling utilities.

2. The Local Authority shall endeaver (a) to secure a contract or contracts with the Government for loans and annual contributions covering one or more Projects comprising approximately seventy-nine (79) units of low-income housing and (b) to develop or acquire and administer such Project or Projects, each of which shall be located within the corporate limits of the Municipality. The obligations of the parties hereto shall apply to each such Project.

3. (a) Under the Constitution and statutes of the State of California, all Projects are exempt from all real and personal property taxes levied or imposed by any Taxing Body. With respect to any Project, so long as either (i) such Property is owned by a public body or governmental agency or is used for low-income housing purposes, or (ii) any contract between the Local Authority and the Government for loans or annual contributions, or both, in connection with such Projects remains in force and effect, or (iii) any bonds issued in connection with such Project or any monies due to the Government in connection with such Project remain unpaid, whichever period is the longest, the Municipality agrees that it will not levy or impose any real or personal property taxes upon such Project or upon the Local Authority with respect thereto. During such period, the Local

(b) Each such annual Payment in Lieu of Taxes shall be made after the end of the fiscal year established for such Project, and shall be in an amount equal to either (i) ten percent of the Shelter Rent charged by the Local Authority in respect to such Project during such fiscal year, or (ii) the amount permitted to be paid by applicable State law in effect on the date such payment is made, whichever amount is lower.

(c) The Municipality shall distribute the Payments in Lieu of Taxes among the Taxing Bodies in the proportion which the real property taxes which would have been paid to each Taxing Body for such year if the Project were not exempt from taxation bears to the total real property taxes which would have been paid to all the Taxing Bodies for such year if the Project were not exempt from taxation; provided, however, that no payment for any year shall be made to any Taxing Body in excess of the amount of real property taxes which would have been paid to such Taxing Body for such year if the Project were not exempt from taxation.

(d) Upon failure of the Local Authority to make any Payment in Lieu of Taxes, no lien against any Project or assets of the Local Authority shall attach, nor shall any interest or penalites accrue or attach on account thereof.

4. During the period commencing with the date of the acquisition of any part of the site or sites of any Project and continuing so long as either (i) such Project is owned by a public body or governmental agency and is used for low-income housing purposes, or (ii) any contract between the Local Authority and the Government for loans or annual contributions, or both, in connection with such Project remains in force and effect, or (iii) any bonds issued in connection with such Project or any monies due to the Government in connection with such Project remain unpaid, whichever period is the longest, the Municipality without cost or charge to the Local Authority or the tenants of such Project (other than the Payments in Lieu of Taxes) shall:

(a) Furnish or cause to be furnished to the Local Authority and the tenants of such Project public services and facilities of the same character and to the same extent as are furnished from time to time without cost or charge to other dwellings and inhabitants in the Municipality;

(b) Vacate such streets, roads, and alleys within the area of such Project as may be necessary in the development thereof, and convey without charge to the Local Authority such interest as the Municipality may have in such vacated area; and, insofar as it is lawfully able to do so without cost or expense to the Local Authority or to the Municipality, cause to be removed from such vacated area, insofar as it may be necessary, all public or private utility lines and equipment;

(c) Insofar as the Municipality may lawfully do so (i) grant such deviations from the building code of the Municipality as are reasonable and necessary to promote economy and efficiency in the development and administration of such Project, and at the same time safeguard health and safety, and (ii) make such changes in any zoning of the site and surrounding territory of such Project as are reasonable and necessary for the development and protection of such Project and the surrounding territory;

(d) Accept grants of easements necessary for the development of such Project; and

(e) Cooperate with the Local Authority by such other lawful action or ways as the Municipality and the Local Authority may find necessary in

5. In respect to y[illegible]oject the Municipality fu[illegible]er agrees that within a reasonable time after receipt of a written request therefor from the Local Authority:

(a) It will accept the dedication of all interior streets, roads, alleys, and adjacent sidewalks within the area of such Project, together with all storm and sanitary sewer mains in such dedicated areas, after the Local Authority, at its own expense, has completed the grading, improvement, paving, and installation thereof in accordance with specifications acceptable to the Municipality;

(b) It will accept necessary dedications of land for, and will grade, improve, pave, and provide sidewalks for, all streets bounding such Project or necessary to provide adequate access thereto (in consideration whereof the Local Authority shall pay to the Municipality such amount as would be assessed against the Project site for such work if such site were privately owned); and

(c) It will provide, or cause to be provided, water mains, and storm and sanitary sewer mains, leading to such Project and serving the bounding streets thereof (in consideration whereof the Local Authority shall pay to the Municipality such amount as would be assessed against the Project site for such work if such site were privately owned).

6. If by reason of the Municipality's failure or refusal to furnish or cause to be furnished any public services or facilities which it has agreed hereunder to furnish or to cause to be furnished to the Local Authority or to the tenants of any Project, the Local Authority incurs any expense to obtain such services or facilities then the Local Authority may deduce the amount of such expense from any Payments in Lieu of Taxes due or to become due to the Municipality in respect to any Project or any other low-income housing projects owned or operated by the Local Authority.

7. No Cooperation Agreement heretofore entered into between the Municipality and the Local Authority shall be construed to apply to any Project covered by this Agreement.

8. No member of the governing body of the Municipality or any other public official of the Municipality who exercises any responsibilities or functions with respect to any Project during his tenure or for one year thereafter shall have any interest, direct or indirect, in any Project or any property included or planned to be included in any project, or any contracts in connection with such Projects or property. If any such governing body member or such other public official of the Municipality involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, he shall immediately disclose such interest to the Local Authority.

9. So long as any contract between the Local Authority and the Government for loans (including primary loans) or annual contributions, or both, in connection with any Project remains in force and effect, or so long as any bonds issued in connection with any Project or any monies due to the Government in connection with any Project remain unpaid, this Agreement shall not be abrogated, changed, or modified without consent of the Government. The privileges and obligations of the Municipality hereunder shall remain in full force and effect with respect to each Project so long as the beneficial title to such Project is held by the Local Authority or by any other public body or governmental agency, including the Government, authorized by law to engage in the development or administration of low-income housing projects. If at any time the beneficial title to, or possession of, any Project is held by such other public body or governmental agency, including the Government, the provisions hereof shall inure to the benefit of, and may be enforced by,

IN WITNESS WHEREOF the Municipality and the Local Authority have respectively signed this Agreement and caused their seals to be affixed and attested as of the day and year first above written.

COUNTY OF MONTEREY, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA

By _____
SAM S. FARR
CHAIRMAN OF THE BOARD OF SUPERVISORS

Attest: Ernest A. Maggini, by

_____, Deputy
Nancy Lukenbill
Clerk of the Board of Supervisors

HOUSING AUTHORITY OF THE COUNTY OF MONTEREY

By _____
CHAIRPERSON OF THE BOARD OF COMMISSIONERS

Attest:

By _____
Bruce W. Moore
Secretary/Executive Director
Board of Commissioners

**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

August 10, 2004

Ms. Starla Warren, Director of Housing Development
Housing Authority of Monterey County
123 Rico Street
Salinas, California 93901

**Subject: Rippling River, Carmel Valley**

Dear Ms. Warren:

This letter is to acknowledge receipt of your August 4, 2004 letter to District General Manager David Berger. District staff will review the Housing Authority's request for consideration of a "waiver" of the District's Water Use Credit Transfer rule with our Chair/Vice Chair committee and legal counsel. This should occur before the end of August.

I will write you again following the Chair/Vice Chair meeting to inform you of the outcome. If you have any questions that I can answer in the interim, please call me at 658-5630.

Sincerely,

Stephanie Pintar
Water Demand Manager

cc: Board of Directors
David Berger
David Laredo

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