

JAN 21 2005

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January 19, 2005

Larry Foy  
Chair, MPWMD  
24603 Lower Trail  
Carmel, CA 93923

Re: Bardis Appeal; Single Well Distribution System, No. 20040426BAR

Dear Mr. Foy:

The Bardis Appeal will be before your Board on Thursday, January 27th. The well, which is the subject of this appeal, is to serve a four-bedroom headmaster's home for All Saints Day School. Mr. Bardis intends to construct the home and donate it to the School.

**District staff set an overall production limit of 14.91 acre feet/year (afy) for the well; allocating 0.44 afy for residential use, including landscape irrigation, and the remaining 14.47 afy for agricultural use.**

**Mr. Bardis does not contest the overall production limit of 14.91 afy.**

**Mr. Bardis' appeal relates solely to the amount of water allocated for residential use, including landscape irrigation.**

**Mr. Bardis seeks a residential allocation of .7 afy, rather than the .44 afy allocated by staff, with the remaining 14.21 afy allocated for agricultural use.**

**Basis for Granting the Appeal**

Staff based its 0.44 residential allocation on water use figures (125 gallons/day/person "gpd") from the 1994 Grice Report<sup>1</sup> using a household population of 3.17 persons per household.

<sup>1</sup> The Grice Report is also obsolete.

The Grice Report indicates, however, that the 3.17 household population figure was based on an average household number, including persons residing in apartments and townhouses. The home Mr. Bardis is building for the School has four bedrooms, which would have a household population closer to 5 persons, rather than 3.17 persons.

**Applying the Grice Report water use figures (125 gpd/person) to a realistic household population of 5, rather than 3.17, results in a water use figure of 0.7 afy<sup>2</sup> for residential use (including landscape irrigation). This is the amount Mr. Bardis requests.**

Moreover, the District's own water fixture unit count for this home results in 0.7 afy being the amount of water that should be allocated to this project, and is the amount upon which permit fees are being paid.

Lastly, homes adjacent to this home have been previously allocated 1 afy of water for residential use, including landscape irrigation, consistent with the .7 afy Mr. Bardis seeks for this home.

**Based on the above, the appropriate allocation for residential use for this well, including landscape irrigation, is 0.7 afy, not the 0.44 afy allocated by staff.**

#### **Options Presented by Staff**

Late Thursday, January 13, 2005, staff presented Mr. Bardis with three options regarding his appeal. Mr. Bardis does not accept these options for the reasons set forth below.

**Option 1:** Was to deny the appeal, leaving Mr. Bardis with .44 afy of water for residential use, including landscape irrigation, for this house.

This option is unacceptable.

As stated above, an allocation of .44 afy for residential use (including landscape irrigation) is incorrect for this four-bedroom home which will have a realistic population of 5 persons. To deny this request, is to require that no more than 3.17 people reside in this house. That is an unreasonable application of the Grice Report, and results in a restraint on how many people can reside in this home.

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<sup>2</sup> The Grice Report was based on an average household population of 3.17 persons (see page 5) including mobile homes, multiple unit residences, and labor camps (see page 7). The residence this well will serve is a four bedroom single family dwelling with an average household population of 5 persons. Based on the Grice Report each person is expected to use 125 gallons per day (page 5). Based on a household population of five (5) persons, daily domestic water use would be 625 gallons per day, which equals 228,125 gallons per year or .7 acre feet/year (228,125 gallons / 325,851 gallons/ac. ft) for potable residential use, including landscape irrigation.

**Option 2A:** Was to continue the matter until District staff conducts further environmental review.

This option is unwarranted.

The issue at hand is whether issuing a permit for .7 afy for residential use, including landscape irrigation, based on the water demand figures of the Grice Report (125 gpd/person) using a household population of 5, rather than 3.17, is consistent with the Court Order and Stipulation, **not** whether it violates CEQA.

Moreover, pursuant to the original Court Order and subsequent Stipulation, Mr. Bardis has 14.91 afy<sup>3</sup> of water available for use on this property without doing further environmental review. Additional CEQA review is required **only** if the owner wants to increase water use above 14.91 afy. Mr. Bardis is not doing that, as the overall allocation of water under this permit remains at 14.91 afy for this 10 acre site.

**Option 2B:** Was to continue the matter until the Applicant seeks a revised Court Order or conducts further environmental review through the County.

This option is also unwarranted for the reasons set forth in the Option 2A discussion above.

### **Indemnification**

If the District is concerned, as described in the Staff Report, about the cost of potential litigation arising from the Board's actions to approve this appeal, Mr. Bardis hereby agrees to indemnify, defend and/or hold MPWMD, its officers, directors, employees, agents or subconsultants harmless from any claim, damage, liability, or cost (including reasonable attorneys' fees and costs of defense) which may arise with respect to MPWMD's granting the appeal herein establishing an overall production limit of 14.91 acre feet/year (afy) for this well with an allocation of .7 afy for residential use, including landscape irrigation, and the remaining 14.21 afy for agricultural use.

### **Findings for Approval**

Mr. Bardis will submit Draft Findings for Approval for your consideration prior to your January 27<sup>th</sup> Board meeting, as suggested in the District's appeal material.

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<sup>3</sup> The Stipulation acknowledges that the 1 afy of water (5 afy total) was allocated to five adjacent parcels reducing the water available for this site to 14.91 afy.

Larry Foy  
January 19, 2005  
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**Conclusion**

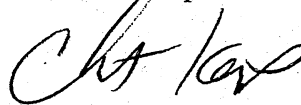
**No further CEQA review is required for this project and approval is in compliance with the law, as set forth above.**

**Mr. Bardis respectfully requests that your Board grant his appeal and increase the residential water allocation to .7 afy, with the remaining 14.21 afy allocated to agricultural use.**

**Mr. Bardis is anxious to build and donate a headmaster's house for All Saints Day School. His ability to deliver a home to the School that will meet their needs, however, is dependent upon your Board's decision.**

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS  
A Professional Corporation



Christine Gianascal Kemp

CGK:ng

Note: Same letter sent to each District Board Member

cc: ✓ Mr. David Berger, District General Manager  
Mr. David Laredo, District Counsel  
Mr. Christo Bardis  
Mr. Roger Post, All Saints School