



EXHIBIT 11-L

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MPWMD

10:00 AM
[Signature]

DATE: January 27, 2005

TIME:

Table with 3 columns: RECIPIENT, FACSIMILE NO., TELEPHONE NO. Rows include Supervisor David Potter, Ms. Henrietta Stern, David C. Laredo, Esq., and Mr. Larry Foy.

FROM: Christine Gianascol Kemp

TRANSMITTED BY:

RE: Bardis Water Distribution System - Draft Findings

NUMBER OF PAGES TRANSMITTED, INCLUDING COVER: 1 CLIENT MATTER NO.: 18363.000

- URGENT (checked), FOR REVIEW, PLEASE COMMENT, FOR YOUR INFORMATION

MESSAGE:

I want to be very clear that the proposed Findings I submitted last night by fax were prepared by me and that the footer with Henrietta Stern's name was inadvertently retained in the document. I apologize for the oversight.

CONFIDENTIAL

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**DRAFT****MONTEREY PENINSULA WATER MANAGEMENT DISTRICT (MPWMD)****FINDINGS of APPROVAL of APPEAL****CONSIDER APPEAL OF HEARING OFFICER DETERMINATION RE: APPROVAL OF BARDIS WATER DISTRIBUTION SYSTEM; APN 169-181-051**

Adopted by MPWMD Board of Directors on January 27, 2005

*Unless otherwise noted, all evidence is on file and available for public review at the District office, 5 Harris Court, Bldg. G, Monterey (Ryan Ranch)*

It is hereby found and determined as follows:

1. **FINDING:** Applicant Christo Bardis is the owner of property at the intersection of Carmel Valley and Schulte Roads, Carmel Valley. The existing parcel (APN 169-181-051) is 10.02 acres in size. Applicant applied for a permit to create the Bardis Water Distribution System (WDS) for a well to provide both potable and non-potable water on existing parcel APN 169-181-051 as allowed by Monterey County zoning and health regulations. The subject property is zoned LDR (Monterey County Code Section 21.14.030).
 

**EVIDENCE:** Application #20040426BAR, site map and application materials dated April 26, 2004 available for review at District office.
2. **FINDING:** A well permit was issued by the Monterey County Health Department in February 2004. The well was constructed on the subject property and tested in July 2004.
 

**EVIDENCE:** Monterey County Health Department permit #04-06798; State DWR Well Completion Report #0900420.
3. **FINDING:** Based on a public hearing held on November 19, 2004, the MPWMD Staff Hearing Officer, on November 24, 2004, approved the application to create the Bardis WDS subject to 20 conditions.
 

**EVIDENCE:** MPWMD WDS Permit #S04-03 and associated Final Conditions of Approval, Final Findings of Approval and CEQA Notice of Exemption, all dated November 24, 2004. MPWMD Hearing Record for hearing held on November 19, 2004; MPWMD *Order Following Hearing* prepared by Hearing Officer on November 24, 2004.

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4. **FINDING:** The applicant filed a timely appeal of the Hearing Officer's determination in accordance with MPWMD Rule 22-A-2 and Rule 70. The applicant agrees with the total production limit of 14.910 AFY, but requests a higher allotment than 0.444 AFY for the residential indoor and landscape irrigation uses. Specifically, an amount of 0.50 AFY was requested for indoor uses only; alternatively, an amount of 0.70 AFY was requested for the combined residential indoor and landscape irrigation uses for the home. The remaining amount would be designated for the agricultural use.

**EVIDENCE:** December 20, 2004 Application for Appeal, including cover letter, application form, exhibits, check for \$750, and Disclosure Statement. MPWMD Rules and Regulations.

#### **Rationale for Granting the Appeal**

5. **FINDING:** Based on data provided in the application, applicable zoning regulations, previous County land use approvals, and previous litigation, 14.91 acre-feet per year (AFY) of water can legally be used on the subject parcel.

**EVIDENCE:** Application #20040426BAR and subsequent materials submitted to District as contained in application file; Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel.

6. **FINDING:** Condition No. 3 of Permit #S04-03 issued by the Hearing Officer set a system capacity (production limit) of 14.910 acre-feet per year (AFY) divided as follows: 0.444 AFY for residential uses, including landscape irrigation, and 14.466 AFY for agricultural irrigation. The allocation of .444 AFY for residential use was based on a limited interpretation of the 1994 Grice Engineering Report, limiting the number of persons residing in a home on this parcel to 3.17 persons. The correct allocation for residential use, including landscape irrigation, for a house of the size to be served by this well is .7 AFY, with the remaining 14.21 AFY allocated for agricultural use based on the water demand figures of the 1994 Grice report based on a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.

**EVIDENCE:** Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel dated June 7, 2002. *Hydrology Study and Nitrate Loading Assessment for the Mills College Property Minor Subdivision at Carmel Valley Road and Schulte Road, Carmel Valley*, prepared by Grice Engineering, Inc., dated November 14, 1994 based on

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the water demand figures of a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.

7. **FINDING:** The 1994 Grice Report is outdated and the report assumptions an average family size of 3.17 persons per parcel which is too low for the size home that is being built on this 10 acre site. The Grice Report could not have predicted the specific family size of future owners of the parcels evaluated in 1994. MPWMD Rules and Regulations stress use of water-using fixtures or other more stable units of measurement (such as regional averages), rather than individual family size at a particular point in time, due to the ever-changing nature of individual family situations. The District's Rules and Regulations and Water Release Form, created there under, demonstrate that .7 AFY is the proper amount of water to be allocated to the home that is being proposed for this site.

**EVIDENCE:** MPWMD Rules and Regulations; MPWMD's Water Release and Water Permit Application Form, created there under, for the home proposed for this site. Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel, dated June 7, 2002. *Hydrology Study and Nitrate Loading Assessment for the Mills College Property Minor Subdivision at Carmel Valley Road and Schulte Road, Carmel Valley*, prepared by Grice Engineering, Inc., dated November 14, 1994 based on the water demand figures for a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.

8. **FINDING:** Four neighboring parcels involved in the original Mills College Subdivision received a Monterey County water allotment of 1.0 AFY per parcel. Equal treatment of this applicant from MPWMD would allocate 1.0 AFY for residential use, with landscape irrigation to this home. The .7 AFY for residential use, with landscape irrigation is consistent with the amount of water allocated to adjacent homes.

**EVIDENCE:** Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel, dated June 7, 2002. *Hydrology Study and Nitrate Loading Assessment for the Mills College Property Minor Subdivision at Carmel Valley Road and Schulte Road, Carmel Valley*, prepared by Grice Engineering, Inc., dated November 14, 1994 based on the water demand figures for a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.

9. **FINDING:** Denial of the appeal prevents the applicant from enjoying beneficial use of the property. The water allocation of .444 AFY for residential use with landscape irrigation is inadequate for the home planned for this site and

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inconsistent with MPWMD's own Rules and Regulations, which through its Water Release and Water Permit Application Form, show that .7 AFY is the appropriate water use allocation for a home of this size.

EVIDENCE: MPWMD Rules and Regulations.

10. FINDING: The application to create the Bardis WDS, along with supporting materials, is in accordance with District Rules 21 and 22.

EVIDENCE: Permit application #20040426BAR submitted to District on April 26, 2004, and supplemental materials on file at District office.

**Required Findings (MPWMD Rule 22-B)**

11. FINDING: The approval of the permit would allow duplication of water service as the subject property is currently served by Cal-Am. However, the duplication of service is not considered to be unnecessary because of existing limitations and constraints on Cal-Am by the State Water Resources Control Board (SWRCB) Order 95-10 and the need to reduce Cal-Am diversions from the Carmel River for many years until a replacement source is developed.

EVIDENCE: SWRCB Order WR 95-10 limiting Cal-Am production from Carmel River alluvial aquifer. Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel; and the water demand figures of the 1994 Grice report based on a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.

12. FINDING: The approval of the permit would not result in water importation or exportation to or from the District, respectively.

EVIDENCE: The referenced parcel is located wholly within the MPWMD as shown on District boundary location maps on file at the District office.

13. FINDING: Approval of the application would not result in significant adverse impacts to the environment that cannot be mitigated by conditions attached to the permit. The system has been evaluated and conditioned to be consistent with previously approved land use approvals from Monterey County as well as CEQA litigation. Water use will be limited to the amount equal to or less than previously approved.

EVIDENCE: CEQA Notice of Exemption signed January \_\_\_\_\_ 2005, (transmitted to County Clerk January \_\_\_\_\_, 2005) citing CEQA Guidelines Section 15303. Revised MPWMD Permit Condition #3 setting water production

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limit at 14.91 AFY, with .07 afy allocated for potable residential use (including outside irrigation) and the remaining 14.21 AFY allocated for non-potable agricultural use, corresponding to uses currently existing and/or previously allowed on the property, uses existing on adjacent properties, and the water demand figures of the 1994 Grice report based on a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well; Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel;

14. **FINDING:** The application adequately identifies the claim of right for the source of water supply and provides supporting verification.

**EVIDENCE:** Information provided in Application #20040426BAR. Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel;

15. **FINDING:** The application demonstrates existence of a long-term reliable source of water supply for the proposed uses. Well testing demonstrated adequate yield; water quality meets primary drinking water standards, but does not meet secondary (aesthetic) standards for chloride, iron, manganese, sulfate and conductivity. Title 22 water quality standards are not required for single-connection systems. Treatment methods are available to remove these contaminants for potable uses, if desired. The District will oppose any application to replace water service for structures served by the Bardis WDS with Cal-Am service if inadequate water quality is the rationale, until full compliance with SWRCB Order 95-10 is achieved.

**EVIDENCE:** Well pumping test data from existing on-site well from Granite Drilling dated July 12, 2004. Water quality analysis provided in application materials. MPWMD Implementation Guidelines for Ordinance No. 96 and 105; Monterey County Health Department regulations. Bardis WDS Conditions of Approval, Condition #14.

16. **FINDING:** The source of supply is the Carmel Valley Alluvial Aquifer (CVAA) and is shared by other water distribution systems much larger than the subject system; the CVAA as a whole is adversely affected by the cumulative impacts of those systems. The cumulative effects of issuance of a permit for subject property would not be expected to result in significant adverse impacts to the species and habitat dependent on those sources of supply because the water distribution system permit conditions do not allow future land use to differ from those uses already approved by Monterey County, and are consistent with CEQA litigation affecting the property.

**EVIDENCE:** Bardis WDS Conditions of Approval, including Condition #3 setting water production limit at 14.91 AFY, with .07 AFY allocated for potable residential use (including outside irrigation) and the remaining 14.21 afy allocated for non-potable agricultural use; Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel; and the water demand figures of the 1994 Grice report based on a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.

17. **FINDING:** The source of supply for the subject parcel is derived from the Monterey Peninsula Water Resources System. The subject parcel overlies the CVAA and has been served to date by water extracted from the CVAA via the Cal-Am system or by two on-site irrigation wells (currently inoperable). The water extractions authorized for this parcel are controlled by Monterey County Superior Court action, including Stipulation and Order.

**EVIDENCE:** MPWMD map showing boundaries of Carmel Valley alluvial aquifer and Ordinance No. 96 regulatory area superimposed on Monterey County parcels. Materials submitted with application #20040426BAR. Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel; and the water demand figures of the 1994 Grice report based on a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.

18. **FINDING:** For the new structures and uses supplied by the Bardis WDS, no permanent intertie between the Bardis WDS and any other system is allowed. The property is within the Cal-Am service area, and Cal-Am is required to provide emergency fire protection. Cal-Am supply is also currently available to certain structures on the property (farmhouse and produce stand) and would continue to be available to those structures. Temporary water service could be provided by trucked-in water pursuant to MPWMD Rule 173 if the proposed system experienced a failure or other non-fire emergency situation.

**EVIDENCE:** Map of Cal-Am service area available at District office; application #20040426BAR; Bardis WDS Conditions of Approval, Condition #12.

19. **FINDING:** A back-flow protection device to prevent contamination of the Cal-Am system will be installed, if necessary, as a condition of this permit.

**EVIDENCE:** Bardis WDS Conditions of Approval, Condition #13. MPWMD Rule 22-B-9, and Rule 22-D-1(h).

**Minimum Standards for Granting a Permit (MPWMD Rule 22-C)**

20. FINDING: The application adequately identifies the responsible party as Christo D. Bardis.
- EVIDENCE: Permit application #20040426BAR on file at the MPWMD office.
21. FINDING: The application meets the definition of a "single-parcel connection system" and is therefore exempt from complying with California Title 22 water quality standards.
- EVIDENCE: Permit application #20040426BAR on file at the MPWMD office. District Implementation Guidelines for Ordinance 96 and 105.
22. FINDING: The application identifies the location of the source of supply for water distribution system (water source and well site).
- EVIDENCE: Permit application #20040426BAR on file at the MPWMD office, including location map. District GIS maps.
23. FINDING: The approval of the application would not create an overdraft or increase an existing overdraft of a groundwater basin due to conditions of approval that reflect current land use on the property as well as determinations based on previous litigation.
- EVIDENCE: Bardis WDS Conditions of Approval, Revised Condition #3. Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel; and the water demand figures of the 1994 Grice report based on a household population of five (5) persons per residence<sup>1</sup> for the four bedroom home to be served by this well.
24. FINDING: The approval of the application would not adversely affect the ability of existing systems to provide water to users due to conditions of approval that limit future water use to no greater than existing allowed uses.
- EVIDENCE: Bardis WDS Conditions of Approval, Revised Condition #3 setting water production limit at 14.91 afy, with .07 afy allocated for potable residential use (including outside irrigation) and the remaining 14.21 afy allocated for non-potable agricultural use; Monterey County Superior Court Case No. M43343 (*Save Our Carmel River v. County of Monterey, et al.*), including Stipulation and Order re: Water Usage on Remainder Parcel; and the water demand figures of the 1994 Grice report based on a household



population of five (5) persons per residence<sup>1</sup> for the four (4) bedroom home to be served by this well.

**Compliance with CEQA**

25. FINDING: In the review of this application, MPWMD has followed those guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000 et seq. Specifically, the MPWMD as a lead agency under CEQA for this action, determined that this action is Categorically Exempt under Category 3, New Construction or Conversion of Small Structures.

EVIDENCE: CEQA and CEQA Guidelines, Section 15303. Notice of Exemption for Bardis WDS dated January \_\_\_\_\_, 2005, transmitted to County Clerk January \_\_\_\_\_, 2005.

*Applicant file based on MPWMD file*

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*HS 3/10/05*

SUBMITTED BY APPLICANT

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
RESIDENTIAL WATER RELEASE FORM AND WATER PERMIT APPLICATION

NOTE: When approved and signed by the jurisdiction, this form must be submitted with final and complete construction plans to:  
Monterey Peninsula Water Management District Permit Office  
5 Harris Court, Bldg. G - Monterey, CA 93940 - (831) 658-3601 - www.mpwmd.dst.ca.us  
Completing the Water Release Form & Water Permit Application does not guarantee issuance of a water permit.

ALL SPACES BELOW MUST BE COMPLETED OR THE APPLICATION MAY NOT BE PROCESSED. (Please print clearly)

1. OWNERSHIP INFORMATION:

Name: Christo Bardis  
Daytime telephone: (916) 316-3645  
Mailing Address: P.O. Box 1048  
Pebble Beach, CA 93953

2. AGENT/REPRESENTATIVE INFORMATION:

Name: \_\_\_\_\_  
Daytime telephone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_

3. PROPERTY INFORMATION:

What year was the house constructed? \_\_\_\_\_ Existing Square-footage \_\_\_\_\_ Proposed Square-footage 4420  
Address: 21310 Schulte Rd Carmel, CA 93923 Assessor Parcel Number 169-181-051  
Is a water meter needed? (Circle one) YES NO If yes, how many meters are requested? one  
Water company serving parcel Well

NOTE: Separate water meters are required for each user. In residential uses, separate meters required for all auxiliary housing that includes a kitchen.

4. PROJECT DESCRIPTION (Be thorough and detailed): NEW SFR 4420 sq. ft. and 800 sq. ft. garage w/ 2 acre site

5. INSTRUCTIONS: Table #1 should list the fixtures on the property as they exist before the project. Table #2 should reflect all fixtures on the property after the project is completed. Only one Master Bath can be designated per residence.

TABLE NO. 1 EXISTING PROPERTY FIXTURE COUNT  
(All fixtures before project)

Table with 4 columns: Type of Fixture, Fixtures, Value, Count. Lists various fixtures like Wash Basin, Toilet, Urinal, etc. with their respective counts and values.

TABLE NO. 2 POST PROJECT FIXTURE COUNT  
(All fixtures after project)

Table with 4 columns: Type of Fixture, Fixtures, Value, Count. Lists various fixtures with handwritten counts and values, including a total of 45.2.

EXISTING FIXTURE UNIT COUNT TOTAL \_\_\_\_\_

PROPOSED FIXTURE UNIT COUNT TOTAL 45.2

In completing the Water Release Form, the undersigned acknowledges that any discrepancy or mistake may cause rejection or delay in processing of the application. Additionally, the undersigned is responsible for accurately accounting for all water fixtures. If the fixture unit count changes without notification to the District, or if a difference in fixtures is documented upon official inspection, water permits for the property may be canceled. In addition, water fixtures installed without a water permit may be cause for interruption of the water service to the site, additional fees and penalties, the imposition of a lien on the property, and deduction of water from the local jurisdiction's allocation. The property owner/applicant is required to notify the District and provide architectural drawings as appropriate for each change in the project made prior to use or occupancy that may affect the project's capacity to use water.

I, Christo Bardis, under penalty of perjury, that the information provided on this Water Release Form & Water Permit Application is to my knowledge correct, and the information accurately reflects water use presently planned for this property.

Signature of Owner/Agent \_\_\_\_\_ Date \_\_\_\_\_ Location Where Signed \_\_\_\_\_

Print Name \_\_\_\_\_

AUTHORIZATION FOR WATER PERMIT - JURISDICTION USE ONLY  
AF Paralia Allocation \_\_\_\_\_ AF Public Allocation \_\_\_\_\_ AF Ord. 98 Bathroom \_\_\_\_\_  
AF PRE-Paralia \_\_\_\_\_ No water needed \_\_\_\_\_ Private Well \_\_\_\_\_  
NOTES: \_\_\_\_\_ Authorized by: \_\_\_\_\_ Date: \_\_\_\_\_

This form expires one year from date of authorization for this project by the jurisdiction.  
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application print copy jurisdiction write copy MP W&D yellow copy

SUBMITTED BY APPLICANT