EXHIBIT 15-C

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

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Via Facsimile #644-9560
David Berger, General Manager
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

Re: MPWMD Proposed Ordinance 122 exempting some water distribution systems from CEQA review and proposed Negative Declaration

Dear Mr. Berger:

On behalf of clients Patricia Bernardi, Save Our Carmel River, and The Open Monterey Project, we offer these comments on the proposed Ordinance 122 and the negative declaration, collectively referred to as "the documents."

My clients support the aspects of the ordinance that enhance control of water resources and enhance environmental review of water distribution systems. The overall approach is welcomed in many respects.

However, my clients are particularly concerned about the increasing number of wells in fractured rock that are being used to enable residential construction. Allowing residential construction to rely on those ephemeral primary sources is short-sighted and irresponsible. While recognizing the County is the primary agency for these approvals, my clients urge the Water District to take proactive steps to prevent these wells, because it is only a matter of time before one or more of the fractured granite wells fails or proves inadequate. When that happens, the developments that rely on those wells will seek relief from the Cal Am system, which has no water to spare. The Water District is charged with integrated management of the water supply on the Monterey Peninsula, and should include all water systems in its review.

My clients are very concerned about the ordinance's proposal to exempt certain water distribution systems from CEQA review. Further, the negative declaration does not comply with the mandates of the California Environmental Quality Act.

The brand new "Level 1/Ministerial Permit" would expand the number of new water distribution systems exempt from CEQA review.

The ordinance's proposed brand new "Level 1/Ministerial Permit" is extremely unwise, and places at risk the adequacy of the negative declaration. The ordinance

proposes the District completely forfeit the District staff's right to review applications for environmental sufficiency, and forfeit the public's right to review the environmental impacts of certain water distribution systems. Under the proposed Level 1, if a property meets the five requirements, the Water District must issue a permit. Even if District staff had concerns about an application, staff would be prevented from asking questions to resolve those concerns. Under Level 1, staff would be forced to issue a permit.

My clients urge the District to (1) remove the "ministerial" label from Level 1 entirely (perhaps refer to this as a permit that staff may issue, with a review by the Board, and (2) add a sixth requirement that retains District discretion in the environmental review process. Staff could still determine the application to be exempt, but would be able to ask questions and obtain information to address specific environmental concerns, as necessary. Applications that present unusual circumstances or potential impacts could be heard by the Board, and decisions made by staff could be appealed to the Board, thereby protecting both the public and the applicant. This discretion is an essential element to ensure that the Water District has the necessary tools to manage the resource.

An unanticipated consequence of the current proposal is that properties located in Canada Woods and other Carmel Valley upland areas may qualify for this new Level 1 exemption. The negative declaration's claim that "the County of Monterey would . . . address environmental concerns in its role as CEQA lead agency for any development proposal" misses the point. First, the Water District cannot rely on other agencies to do the District's environmental review. Second, the negative declaration assumes that there is a development proposed concurrent with the well application, which is not always the case. Third, the development proposal may be potentially exempt from CEQA (for example, a single family residence), so the County's lead agency status would not provide any other environmental review.

The negative declaration says that a Level 1 permit "would require no permanent interties to other water systems." However, the ordinance does not include this language. Separately, why are any inter-ties to another water system allowed, even temporarily? The environmental impacts of any inter-tie with any other water system or systems should be identified or discussed in the negative declaration if they are allowed at all. That discussion is absent and the negative declaration fails accordingly.

For all these reasons, all "ministerial" designations of Level 1 should be eliminated entirely. The Water District should not give up its and the public's ability to ensure appropriate environmental review. Because the negative declaration fails to discuss the elimination of CEQA review for these Level 1 projects, and fails to identify or

discuss the environmental impacts of that elimination, the document is inadequate under CEQA. Failure to follow the procedural requirements of CEQA is not harmless error.

Table 22-A, Matrix of Permit Review Levels is inconsistent with the ordinance itself.

Table 22-A refers to "residential" use on lines 1 through 12. However, the ordinance does not require that all those categories be "residential."

"Land Use/Type" is misleading because, for example, a "new subdivision" is not land use. We suggest a more accurate label that focuses on the water issues involved, such as Project Type.

The category "Commercial/Residential" should be identified as "Non-Residential" because the intent would be clarified. This clarification would relieve District staff from having to make judgment calls on, say, a 2-acre vineyard that the applicant claims is intended for personal use.

The matrix entries currently overlap at 2.5 acres at line 2 and 3, and at lines 6 and 7, and at line 10 and 11. What happens on a 2.5-acre parcel? We suggest the use of the "greater than" and "less than" signs to avoid confusion.

Lines 4, 8 and 12 are inconsistent. It appears that on those lines that Parcel Size should be "10+" to be consistent with "Est Use."

The Negative Declaration demonstrates a misunderstanding of the required environmental review under CEQA

The negative declaration makes the claim that any "[attempt] to determine whether there would be adverse impacts is premature and speculative." Negative Declaration, page 15. Let there be no mistake: CEQA requires the Water District to make that attempt. CEQA requires a good faith effort, based on the Water District's knowledge, to determine whether there would be adverse environmental impacts. The Water District's apparent misunderstanding of the CEQA review process is troubling.

Inconsistently, the Water District considers Ordinance 122 "to have a beneficial, neutral, or less than significant environmental effect" because it "would refine regulations that . . . may facilitate new construction and potential new water use." Negative Declaration, page 15. The District apparently does not consider that determination to be "premature and speculative." It is not the Water District's role to

"facilitate new construction and potential new water use." These statements raise serious concern about the District's willingness to bend CEQA to facilitate development, which is inconsistent with the scope of the District's powers, as well as the responsibilities entrusted to the District under State law.

Conclusion

Thank you for the opportunity to comment. My clients urge the District to make these critical changes to the ordinance.

Please put my office on the distribution list for notices relating to all hearings and all actions on this matter.

Very truly yours,

Michael W. Stamp