

EXHIBIT 15-E

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MPWMD

Via Facsimile

David Pendergrass, Chair,
and Members of the Board of Directors
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93940

Re: February 22, 2007 Board agenda – Item 15, third bathroom
Support for Staff Recommendation

Dear Chair Pendergrass and Members of the Board of Directors:

My clients Save Our Carmel River, Patricia Bernardi, and The Open Monterey Project urge you to uphold the staff decision and deny the appeal.

If you deny the project and the appeal, your decision is exempt from CEQA. However, if you approve the project, your decision is not exempt, and environmental review under CEQA must be performed. The precedent-setting nature and cumulative impacts of such an approval must be analyzed under CEQA before Board approval.

A project to add water fixtures – thereby increasing water use – is not subject to an “existing facility” exemption under CEQA. Water use is not a “facility” or “structure” under CEQA. *Save Our Carmel River vs. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677, 683, 697 (water credit transfer is neither a structure nor a facility; on its face the CEQA exemption for “replacement of existing facility” used by MPWMD does not apply to transfer of hypothetical water use).

The MPWMD has not analyzed what impact the second-bathroom ordinance has on water consumption. That information is available to you because the MPWMD deed restrictions on properties availing themselves of the benefits of the second bathroom ordinance give MPWMD access to the water use records of those properties. No decisions to expand the second bathroom ordinance should be made until the MPWMD has prepared and circulated for public review an adequate analysis of the known water use impacts of second bathrooms that were permitted under the ordinance.

Additionally, approving the third bathroom would violate district rules and regulations, as the staff report points out.

If you want to overturn the staff decision, I ask you to review and consider the following documents before you approve this request for a third bathroom. I refer you to, incorporate by reference, and ask you to include in the administrative record for this

February 21, 2007


Board of Directors, Monterey Peninsula Water Management District
Page 2

project, the following documents: SWRCB Ordinance 95-10; SWRCB Decision 1632; the MPWMD staff study on water use credits dating from 2000-2001; the DCI, Inc. Analysis of Water Savings Associated with Documented Water Use Credits and Transfers dated June 1, 2001; the entire administrative record under MPWMD Ordinance 114; and MPWMD forms entitled "Residential Water Credits," "Residential Water Release Form and Permit Application," "Water Use Credit Application" and "How Are New Water Connection Fees Computed?" (residential). Those documents are all in the MPWMD's possession. If you do not have a copy of these materials and would like a copy, please let me know and I will provide one.

If the Board approves this third bathroom under a CEQA exemption, please send me the Notice of Determination as soon as it is filed.

Thank you for the opportunity to comment..

Very truly yours,



Michael W. Stamp