



**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 08/20/07 MPWMD BOARD PACKET

Attached are copies of letters received between July 11, 2007 through August 9, 2007. These letters are also listed in the August 20, 2007 Board packet under item 20, Letters Received.

<b>Author</b>	<b>Addressee</b>	<b>Date</b>	<b>Topic</b>
John S. Bridges	David A. Berger	7/9/07	Proposed Rule Change Regarding Landscape Irrigation Water Credit <i>7/13/07 Response Letter from David A. Berger attached</i>
Linda G. McIntyre	David A. Berger	7/19/07	MOU Draft No. 4
Mark Stilwell	David. A. Berger	7/27/07	Pebble Beach Company – Sale of Water Entitlement <i>8/10/07 Response Letter from David A. Berger attached</i>
Nathan Pierce	MPWMD	8/1/07	Taste and Quality of Local Water Supply <i>8/3/07 Response Letter from David A. Berger attached</i>
Dick Butler	Dr. Roy Thomas	8/2/07	Proposal to Rescue Steelhead Stranded in the Carmel River Lagoon
Kelly Morgan	David A. Berger	8/3/07	Water Distribution System Permit for Sand City Water Supply Project <i>8/10/07 Response Letter from David A. Berger attached</i>

CHARLES R. KELLER  
 RONALD F. SCHOLL  
 THOMAS H. JAMISON  
 MARK A. CAMERON  
 JOHN S. BRIDGES  
 DENNIS G. MCCARTHY  
 JACQUELINE P. MCMANUS  
 CHRISTOPHER E. PANETTA  
 DAVID C. SWEIGERT  
 SARA B. BOYNS  
 SHARILYN R. PAYNE  
 BRIAN E. TURLINGTON  
 AMBER D. PASSNO  
 CAROL S. HILBURN  
 JAY P. MENCHACA  
 KOREN R. MCWILLIAMS  
 SHERYL L. AINSWORTH

## FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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LEWIS L. FENTON  
 1925-2005

RECEIVED  
 OF COUNSEL  
 GARY W. SAWYERS

JUL 11 2007

MPWMD

July 9, 2007

JOHN S. BRIDGES

JBridges@FentonKeller.com  
 ext. 238

Monterey Peninsula Water Management District  
 c/o David Berger, General Manager  
 Post Office Box 85  
 Monterey, CA 93942-0085

Re: Proposed Rule Change Regarding Landscape Irrigation Water Credit

Dear Mr. Berger:

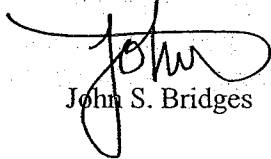
In accordance with our conversations with you and Ms. Pintar, enclosed is proposed language that we believe would accomplish the landscape irrigation water credit we discussed. The goal would be to encourage the reduction of Cal Am water use (and consequently the use of water from the Carmel River Aquifer and/or the Seaside Basin) by encouraging substitute water sources for landscape irrigation. As previously mentioned, in the case of the Calvary Chapel property an existing well could be used as an alternative source for landscape irrigation water. With the credit that would hopefully accrue, the church would intend to construct another building on its property. The building has already been approved by the City of Monterey.

We see this as a win-win idea since both the environment and the property owner would be benefited.

We understand the District is in the process of considering rule changes related to the use of recycled water and request that this proposal be considered concurrently. We would appreciate it if you would forward this proposal to the appropriate staff, committees, and ultimately to the District board for consideration. Of course, we would be glad to discuss the concept further, as appropriate. Thank you for your consideration and assistance.

Very truly yours,

FENTON & KELLER  
 A Professional Corporation

  
 John S. Bridges

JSB:kmc

cc: Stephanie Pintar  
 Calvary Chapel, Attn: Nate Holdridge, Asst. Pastor  
 Paul Davis

H:\documents\kmc.0d2slas.doc

In order to encourage water savings to the Carmel River Aquifer/Seaside Basin, water credits may be given for providing alternative landscaping irrigation with water sourced outside the Carmel River Aquifer or the Seaside Basin (e.g. landscape irrigation via on-site well not in Cal-Am aquifer) subject to the following:

1. Credit to be established by a water budget calculated using maximum applied water allowance (MAWA) for the property using MPWMD standards, reasonable landscape quantities and approved plant materials and irrigation methods as typically required for county or city planning approvals around buildings, parking, and setbacks.
2. Pump tests or verification of alternative source must meet MPWMD standards for capacity to provide required water for landscaping.
3. Deed restriction recorded on property to be irrigated and permanently restricting use of Carmel River Aquifer or Seaside Basin water for landscape irrigation.
4. Landscape and irrigation drawings clearly showing separation of alternative landscape water from Cal-Am water used for buildings.



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WATER MANAGEMENT DISTRICT**

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July 13, 2007

John S. Bridges  
Fenton & Keller  
P.O. Box 791  
Monterey, CA 93942-0791

**Subject: Proposed Rule Change Regarding Landscape Irrigation Water Credit**

Dear Mr. Bridges:

This will serve to acknowledge receipt of your letter of July 9, 2007 regarding your suggestion for changing the District's rules to grant water use credit for the conversion of outside irrigation from a potable water supply to an existing well. I have referred your letter to our Water Demand Manager, Stephanie Pintar, for analysis and comment. Your letter will be provided to the Board of Directors.

Again, thank you for writing to me on this subject.

Sincerely,

David A. Berger  
General Manager

pc: MPWMD Board of Directors  
Stephanie Pintar



BOARD OF COMMISSIONERS  
 RUSSELL JEFFRIES  
 MARGARET SHIRREL, PH.D.  
 YOHN GIDEON  
 VINCENT FERRANTE  
 FRANK GOMES, JR.

7881 SANDHOLDT ROAD  
 MOSS LANDING, CA 95039

TELEPHONE - 831.633.5417  
 FACSIMILE - 831.633.4537

GENERAL MANAGER  
 HARBORMASTER  
 LINDA G. MCINTYRE, Esq.

July 19, 2007

RECEIVED

JUL 23 2007

MPWMD

Monterey Bay Regional Water Solutions  
 Leadership Task Force  
 Attn: Mr. David Berger, GM MPWMD  
 5 Harris Court, Bldg. G  
 P.O. Box 85  
 Monterey, CA 93942-0085

RE: MOU Draft No. 4

Dear Mr. Berger:

Pursuant to our earlier e-mail exchange, this will confirm that at its June 28, 2007 regular meeting, the Board of Harbor Commissioners adopted Resolution No. 07-11 approving the MBRWSLTF MOU Draft No. 4 with the exclusion of the paragraph requiring that each of the Participating Entities contribute technical resources and in-kind assistance. The Board also indicated that it did not support a financial contribution to the Task Force.

Enclosed please find an executed copy of Resolution No. 07-11.

Please feel free to contact me should you require any further information.

Sincerely,  
 MOSS LANDING HARBOR DISTRICT

Linda G. McIntyre  
 General Manager

LGM/mdm  
 Enclosure: As stated

CELEBRATING OUR 60TH YEAR OF SERVICE TO  
 COMMERCIAL FISHING!

# RESOLUTION 07-11

## A RESOLUTION OF THE BOARD OF HARBOR COMMISSIONERS OF THE MOSS LANDING HARBOR DISTRICT APPROVING THE MONTEREY BAY REGIONAL WATER SOLUTIONS LEADERSHIP TASK FORCE MEMORANDUM OF UNDERSTANDING

\* \* \* \* \*

**WHEREAS**, the Board of Harbor Commissioners has reviewed and considered the contents and intent of the "Draft No. 4" Monterey Bay Regional Water Solutions Leadership Task Force Memorandum of Understanding, and

**WHEREAS**, said proposed MOU would initiate a collaborative process with the County, specified Cities and public water and wastewater agencies for development of regional water supply solutions for the Monterey Peninsula and the northern communities of Monterey County, and

**WHEREAS**, the Board has established its concern about future water resources available for Harbor users and is therefore interested in the process for developing regional water supply solutions, and

**WHEREAS**, however, the Board has determined that the Harbor District does not have technical resources to contribute nor can it provide in-kind assistance as set out in the MOU and has communicated this to the task force.

**NOW THEREFORE, BE IT RESOLVED THAT** the Moss Landing Harbor District Board of Commissioners approves the attached Monterey Bay Regional Water Solutions Leadership Task Force MOU excluding the provision that states, "that each of the Participating Entities shall contribute the technical resource and in-kind assistance necessary to effectively implement the scope of responsibility described above", and hereby directs the General Manager to execute the MOU on behalf of the Moss Landing Harbor District once the above-described excluded provision is removed or once the Moss Landing Harbor District is otherwise exempted from the obligations described therein.

\* \* \* \* \*

### CERTIFICATION

Resolution 07-11 was duly adopted by the Board of Harbor Commissioners of the Moss Landing Harbor District at a regular meeting of the Board held on the 28th day of June, 2007, a quorum present and acting throughout, by the following vote, to wit:

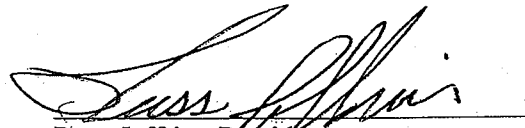
AYES: Commissioners Jeffries, Shirrel, Gideon, Ferrante, Gomes

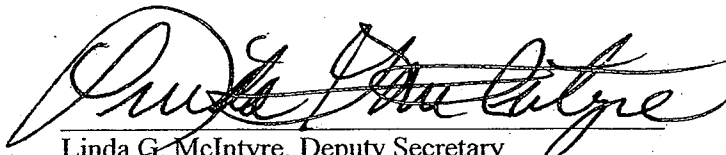
NOES:

ABSENT :

ABSTAIN :

ATTEST :

  
Russ Jeffries, President  
Board of Harbor Commissioners

  
Linda G. McIntyre, Deputy Secretary  
Board of Harbor Commissioners

**DRAFT No. 4****Monterey Bay Regional Water Solutions  
Leadership Task Force  
Memorandum of Understanding**

This Memorandum of Understanding (hereinafter referred to as "MOU") is made and entered into as of the first day of \_\_\_\_\_, among the signatory public agencies executing below.

**WHEREAS**, on November 30, 2004 the Board of Supervisors of the Monterey County Water Resources Agency (hereinafter referred to as "Agency") determined that the Agency would initiate a collaborative process with the County, specified Cities and public water/wastewater agencies for development of regional water supply solutions for the Monterey Peninsula, and the northern communities of Monterey County, including Salinas; and,

**WHEREAS**, on April 19, 2005 the Board of Supervisors directed the Agency's General Manager to draft an appropriate agreement to form a Water Authority (formerly known as Regional Urban Water Supply Board) to be comprised of members from the County Board of Supervisors, City Councils, and members of Boards of Directors of public water and wastewater agencies (hereinafter referred to as "Participating Entities"), to engage a program management firm to assist in developing and implementing a strategy to meet the long-term urban water supply needs of the coastal and northern region of Monterey County; and to identify funding sources for the formation of the Monterey Bay Regional Water Authority (hereinafter referred to as "MBRWA"), and

**WHEREAS**, the Fort Ord Reuse Authority, Moss Landing Harbor District, U.S. Department of Defense installations and other public entities are interested in analyzing potential regional water supply solutions for the Monterey Peninsula and northern Monterey County, and also would be considered Participating Entities; and

**WHEREAS**, the Participating Entities signatory to this MOU desire to cooperatively engage in water supply planning and jointly analyze proposed projects for the coastal and northern urban areas of Monterey County; and

**WHEREAS**, the Participating Entities are willing and able to furnish certain start-up resources and in-kind assistance in support of this MOU; and

**WHEREAS**, the Division of Ratepayer Advocates (hereinafter referred to as "DRA") of the California Public Utilities Commission ("CPUC"), has offered to facilitate a series of regional water supply planning dialogues and to include effected public and private entities along with California-American Water Company; and

**WHEREAS**, DRA's specific intent in forming these regional water supply reliability dialogues is to identify an alternative regional project, or projects, and water management programs that would be more cost effective for ratepayers and have greater regional benefit than California

American Water Company's proposed Coastal Water Project and result in an implementation strategy; and

**WHEREAS**, this MOU provides the most practical method to quickly create a leadership and management framework responsible for developing (during Phase 1) and implementing (in Phase 2) a strategy to comprehensively achieve regional water supply solutions, as well as the start-up of a publicly-owned regional water supply project if identified in the strategy developed during Phase 1; and

**WHEREAS**, the term of this MOU will expire three years after the effective date stated above, or upon formation of the MBRWA, whichever comes first; and

**WHEREAS**, the Participating Entities are committed to considering the establishment of the MBRWA; and

**WHEREAS**, the Participating Entities recognize and respect that member entities exercise independent control over their individual sub-regional projects.

**NOW, THEREFORE, BE IT RESOLVED**, that a Leadership Task Force comprised of a representative of the governing body of each of the Participating Entities (hereinafter referred to as "LTF"), and a Technical Advisory Committee comprised of the executive manager of each of the Participating Entities (hereinafter referred to as "TAC"), are hereby established to carry out the responsibilities described in this MOU; and

**BE IT FURTHER RESOLVED** that, through this MOU, the Participating Entities desire to give the LTF a scope of responsibility to include the development of a proposed strategy for consideration by the Participating Entities, that would meet the long-term urban water supply needs, through publicly-owned sub-regional project(s), regional desalination project(s) or other regional public project(s), of the Monterey Peninsula and the communities of northern Monterey County, including Salinas; and

**BE IT FURTHER RESOLVED** that the LTF is directed to take the preliminary steps necessary for the Participating Entities to consider eventual formation of the MBWRA to fully accomplish the purposes described in this MOU; and

**BE IT FURTHER RESOLVED** that the LTF, with technical assistance by the TAC, will 1) participate in the DRA convened regional water supply reliability dialogues; 2) review of all regional and sub-regional water supply projects to ensure that through the collective efforts of all member entities the long-term urban water supply needs of the region are fully and most cost-effectively met; and 3) maximize the region's overall competitiveness to attract state and federal grants to fund such projects; and

**BE IT FURTHER RESOLVED** that each of the Participating Entities shall contribute the technical resource and in-kind assistance, necessary to effectively implement the scope of responsibility described above.



(Add signature line for each Participating Entity, below)

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Entity Name and Title of Signing Official

---

Entity Name and Title of Signing Official

U:\David\2007\MBWA\_MOU\_Draft 4\_final\_corrected\_2.23.07.DOC

**EXHIBIT 25-B**

**MONTEREY BAY REGIONAL WATER SOLUTIONS LEADERSHIP TASK FORCE  
MEMORANDUM OF UNDERSTANDING  
CONSIDERATION STATUS (6/07)**

Agency	Board/Council Action on LTF MOU	Status of \$5,000 Contribution
Castroville Water District	approved draft (6/06)	approved
Marina Coast Water Dist.	“ “	“
City of Sand City	“ “ (3/6/07)	“
City of Del Rey Oaks	“ “ (3/27/07)	not considered
City of Carmel	“ “ (3/13/07)	approved
City of Monterey	“ “ (4/17/07)	“
Fort Ord Reuse Authority	“ “ (4/13/07)	not considered
MPWMD	reviewed/supported draft w/ changes; staff rec. formal approval (6/18/07)	staff recommending
MRWPCA	Board Comm. endorsed draft (3/8/07); staff rec. formal approval (6/25/07)	same
City of Salinas	staff rec. approval (6/19/07)	same
City of Pacific Grove	staff rec. approval (6/20/07)	unknown
City of Marina	staff rec. approval (6/12/07)	same
MCWRA/Monterey County	Board of Supervisors authorized formation	same
Moss Landing Harbor Dist.	Board reviewed 3/29/07; will consider (6/28/07)	unlikely
Pajaro/Sunny Mesa CSD	withdrew interest (4/10/06)	same



PEBBLE BEACH  
COMPANY

RECEIVED

AUG 03 2007

MPWMD

July 27, 2007

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

Re: Pebble Beach Company - Sale of Water Entitlement

Dear Mr. Berger:

With the adoption of Ordinance No. 109 on May 27, 2004 ("Ordinance 109"), the Monterey Peninsula Water Management District ("MPWMD") authorized Pebble Beach Company ("PBC") to sell up to 175 acre-feet per year ("AF") of PBC's Water Entitlement (the "Water Entitlement") granted to PBC by MPWMD in connection with the financing of the CAWD-PBCSD Recycled Water Project (the "Project"). The sales were authorized to finance the costs of important improvements to the Project, consisting of additional recycled water storage at the Forest Lake Reservoir in Del Monte Forest (the "Forest Lake Component") and advanced treatment facilities at the CAWD treatment plant (the "Advanced Treatment Component") in the unincorporated Carmel area (collectively referred to as the "Project Expansion"). The Project Expansion is well underway, with the Forest Lake Component having been completed and become operational in 2006, and with the commencement of construction of the Advanced Treatment Component at the CAWD plant in 2006 with anticipated completion in 2008. PBC has sold portions of its Water Entitlement and the proceeds of those sales have been devoted to the costs of the Project Expansion, all in accordance with Ordinance 109.

Under Ordinance 109, sales of PBC's Water Entitlement have been limited to owners of lots in Del Monte Forest, and only for residential use. PBC has completed sales of the Water Entitlement to Del Monte Forest lot owners, presently totaling approximately 114 AF, and raising approximately \$23 million for the Project Expansion. This level of sales at the projected (and as it turns out, actual) market prices was deemed sufficient to cover the costs of construction of the Project Expansion as estimated in 2004 (\$22 million as recited in Ordinance 109). However, for a variety of reasons (primarily related to the design features of the Advanced Treatment Component), the costs of construction of the Project Expansion will substantially exceed the 2004 estimates. The presently estimated costs of the Project Expansion are \$34 million. Thus, an expanded market for the sale of the Water Entitlement is required to meet the purpose and intent of Ordinance 109 to

LEGAL AFFAIRS

Mr. David A. Berger, General Manager  
Monterey Peninsula Water Management District  
July 27, 2007  
Page 2

finance the Project Expansion. It is PBC's judgment that the market in Del Monte Forest has largely been exhausted, with perhaps only another 15 AF of demand; yet covering the increased costs of the Project Expansion will likely require another 45 AF of sales at current market prices.

PBC therefore requests that Ordinance 109 be amended to permit sales of the Water Entitlement at any location within the California American Water ("Cal-Am") service area (which would include portions of unincorporated Monterey County and the incorporated cities of Carmel, Pacific Grove, Monterey, Seaside, Del Rey Oaks, and Sand City). This request would involve only simple, limited amendments to Ordinance 109 to expand the area in which the Water Entitlement may be sold; PBC does not propose to modify the other stipulations of Ordinance 109 which require that the Water Entitlement be sold only to owners of existing lots and used only for Residential Use (as defined in the MPWMD Rules and Regulations) and the sale proceeds devoted exclusively to the costs of the Project.

MPWMD's approval of PBC's request will continue to promote the public benefits of the Project and the Project Expansion (many of which are recited in Ordinance 109). The Project has been *the* major new water supply project on the Monterey Peninsula sponsored by MPWMD, reflecting conversion of large irrigation areas to recycled water with the resulting savings of potable water use and reduction of withdrawals from potable water supply sources. To date, the Project has saved the community 8,286 AF (or 2.7 billion gallons) of potable water (averaging 690 AF annually, or 225 million gallons annually). The Project Expansion has and will only enhance these benefits; the purpose and intent of Ordinance 109 was to provide the financing vehicle by which these enhanced benefits could be realized without cost to the public.

The expanded water sales area is necessary to achieve the purpose and intent of Ordinance 109. Initially, the Water Entitlement sales area was limited to Del Monte Forest because that is the area (i.e., the golf courses using recycled water) from which the potable water savings supporting the Water Entitlement were located, with the anticipated ability to generate sufficient funds from sales to cover the costs of the Project Expansion. With additional sales outside of Del Monte Forest to cover the costs of the Project Expansion, the benefit of water for owners of undeveloped residential lots of record is more widely available, for those who may wish to acquire it. This is a considerable benefit to those residential lot owners who may have been waiting many years for water to realize their plans.

With respect to review of PBC's request under the California Environmental Quality Act ("CEQA"), our legal counsel has looked at this question carefully, and we believe compliance with CEQA can be achieved without the necessity of a supplemental or subsequent Environmental Impact Report ("EIR"). As you know, MPWMD approved

Mr. David A. Berger, General Manager  
Monterey Peninsula Water Management District  
July 27, 2007  
Page 3

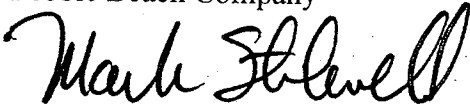
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Ordinance 109 with detailed findings that a supplemental or subsequent EIR was not required under section 21162 of the CEQA Guidelines, based on the EIR originally certified by CAWD and MPWMD for the Project. Ordinance 109 authorized the change in location of use of the Water Entitlement but did not increase the amount of the Water Entitlement or the authorized use (primarily residential). We believe the same analysis applies to PBC's current request for an amendment to Ordinance 109. While the request involves a "change" to the "project" approved by MPWMD as to its financing mechanism,<sup>1</sup> the "change" involves only a change in the location of use of an established and vested Water Entitlement. With the limitations on the use of the Water Entitlement for Residential Use, PBC does not believe that any of the conditions requiring preparation of a supplemental or subsequent EIR under section 21162 of the CEQA Guidelines exist. This is supported by the fact that, as to ultimate buildout, each of the General Plans in effect for the affected jurisdictions account for buildout of lots of record; each of those General Plans were otherwise adopted with a certified EIR or were in compliance with CEQA; and reliance may be placed on those General Plan EIRs under CEQA as to general environmental, growth-inducing, and cumulative impacts of development of legal lots within their jurisdiction.

Thank you for your consideration of our request. I look forward to your response.

Sincerely,

Pebble Beach Company



Mark Stilwell  
Executive Vice President  
and General Counsel

cc: David Laredo/MPWMD  
Ray von Dohren/CAWD  
Craig Anthony/PBCSD

<sup>1</sup> MPWMD's responsibility and jurisdiction, as noted in the Ordinance 109 findings, is limited to the financing of the Project and Project Expansion. It is noted that the Forest Lake Component is within the responsibility and jurisdiction of PBCSD and was approved by PBCSD by Negative Declaration adopted 7/27/01 (Resolution No. 01-21) and Combined Development Permit approved 8/08/01 by Monterey County; and the Advanced Treatment Component is within the responsibility and jurisdiction of CAWD and was approved by CAWD by Negative Declaration adopted 1/26/06, and Coastal Development Permit No. 3-82-199-A7 approved by the California Coastal Commission 3/29/06. CEQA compliance and the necessary approvals for the Project Expansion are therefore not at issue in PBC's request; they have already been obtained.



## MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

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5 HARRIS COURT, BLDG. G  
POST OFFICE BOX 85  
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August 10, 2007

Mr. Mark Stilwell  
Executive Vice President  
Pebble Beach Company  
P.O. Box 1767  
Pebble Beach, CA 93953

Dear Mr. Stilwell:

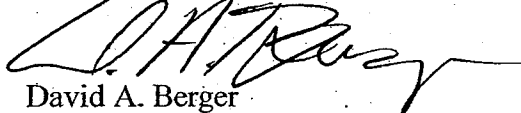
I am writing to acknowledge receipt of your letter to me dated July 27, 2007. Your letter requests that the Monterey Peninsula Water Management District Board of Directors consider adopting an ordinance to expand to the geographic area within which the Pebble Beach Company's water entitlement may be utilized, which currently is limited to "benefited properties" in the Del Monte Forest, to the entire Monterey Peninsula service area of California American Water. Your letter advises that the purpose of such proposed water entitlement sales area expansion would be to generate additional revenues needed to cover the cost of constructing the CAWD/PBCSD Expanded Recycled Water project, which is significantly higher than was estimated at the time the District Board adopted its authorizing Ordinance 109.

Because your letter raises a significant policy issue for which District staff and legal counsel lack direction, I intend to place it on the Board's August 20, 2007 regular agenda. As we discussed, my primary interest in doing so is to seek Board guidance as to whether they wish to initiate, at this time, the legal, legislative and environmental analysis process that would be required for consideration of such an ordinance. Second, should the Board respond favorably to your request, I will ask them to delegate drafting of such an ordinance to District counsel and staff. I will also recommend subsequent referral of the draft ordinance to the District committees that advise the Board on water use matters, i.e. the Board's Water Demand Committee, as well as the Policy Advisory Committee and Technical Advisory Committee comprised of elected officials and staff, respectively, of the land use jurisdictions within the District's boundaries. Finally, I will seek Board direction to negotiate and authority to enter into a reimbursement and indemnification agreement with the Pebble Beach Company, to cover the District's legal and other actual out-of-pocket expense and liability associated with the drafting, environmental analysis, and potential adoption of the requested ordinance.

August 10, 2007  
Mr. Mark Stilwell  
Page 2

Please let me know if you have any questions or need further information.

Sincerely,



David A. Berger  
General Manager

cc: Chairman Pendergrass/MPWMD Board of Directors  
David C. Laredo, General Counsel, MPWMD  
Ray Von Dohren, General Manager, Carmel Area Wastewater District  
Craig Anthony, General Manager, Pebble Beach Community Services District  
Steve Leonard, Vice President/Manager, California American Water

MPWMD  
 5 Harris Ct, Bldg J  
 P.O. Box 85  
 Monterey, Ca 93942-0085

RECEIVED

AUG 01 2007

MPWMD

Thank you for the unsolicited 2006 Annual Report delivered to my post office box. It was full of information. However, it did not contain the answer to a question I've been dying to know: Why does my tap water taste so God-awful? I mean water is a necessity of life ~~and~~ and it comes through pipes into my humble living space, yet I buy additional to drink.

Maybe I have no right asking this question - I pay not MPWMD. As there is only one water meter on our property the bill goes to my landlord. Still I am dying to know why, when I drink water from the tap it feels like it's corroding my insides. My insides decaying.

Thank you for your time,  
 Nathan Perie  
 PO Box 51245  
 Pacific Grove, Ca 93950





**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

---

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August 3, 2007

Nathan Pierce  
P.O. Box 51245  
Pacific Grove, CA 93950

Dear Mr. Pierce:

This will acknowledge your letter received on August 1, 2007 in which you inquire about the taste and overall quality of the tap water delivered by California American Water (CAW). The Monterey Peninsula Water Management District has no regulatory authority over the taste and quality of tap water. The California Department of Health Services is responsible to regulate the quality of water delivered by CAW. I have forwarded a copy of your letter to Tom Bunosky of CAW for his information and use in possibly following up on your inquiry. Thank you for writing to me on this subject.

Sincerely,

David A. Berger  
General Manager

pc: Tom Bunosky, CAW Vice President/Acting Manager Monterey Division  
MPWMD Board of Directors



21

**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
777 Sonoma Ave., Room 325  
Santa Rosa, CA 95404-4731

August 2, 2007

In response refer to:  
SWR/F/SWR3:RWB

RECEIVED

AUG 08 2007

MPWMD

Dr. Roy Thomas  
President, Carmel River Steelhead Association  
P.O. Box 1183  
Monterey, California 93940

Dear Dr. Thomas:

This letter is in response to your letter of July 30, 2007, regarding the proposal to rescue steelhead stranded in the Carmel River lagoon.

First of all, thank you for your acknowledgement of NOAA's National Marine Fisheries Service's (NMFS) efforts to conserve Carmel River steelhead. I consider the Carmel River Steelhead Association to be valued partner and ally in that endeavor. In these times of limited Federal resources available for fisheries conservation, it is critical for NMFS to develop and foster partnerships such as ours if we are to succeed in our mission.

Your letter accurately describes the present situation with steelhead trapped in the Carmel River lagoon, apparently both kelts and smolts. I agree that this is an unfortunate situation for those fish, and I urge you to continue your efforts to seek alternative sources of water and to reduce pumping that reduces inflows to the lagoon. Perhaps your efforts can provide some relief for this dry season. Temporary solutions for this year could be beneficial; however, it is paramount that we find long-term permanent solutions to the problem of over drafting of Carmel River water.

In this case, it is our opinion that to capture and handle steelhead in the lagoon, and move them to the Sleepy Hollow rearing facility would be a mistake. High water temperatures in the lagoon would add to the stresses the fish are already experiencing, increasing the likelihood of death and disease. And, the risks of exacerbating an already tenuous situation for fish at the facility are far too great. Flows to the rearing facility are due to drop later this summer, and water temperatures will likely increase as well. Relocating additional fish to Sleepy Hollow is a recipe for disaster.

The issue of Monterey Peninsula Water Management District's (MPWMD) obligation to rescue steelhead is complicated by the fact there is no Endangered Species Act permit in place to allow their fish rescues. There is a 4(d) rule (promulgated under Endangered Species Act) in place that



authorizes California Department of Fish and Game to oversee rescues, but this rule was not written to include events that occur regularly year after year. I ask you and your organization to join with NMFS in urging MPWMD to work with NMFS to complete the Rescue and Rearing Management Plan required for NMFS to complete the permit process. Our plan is to have this permit also cover a brood stock program to provide protections from situation like we are experiencing this year. The lack of proper Endangered Species Act permits severely limits MPWMD's conservation alternatives, and also puts NMFS in this difficult position of having to address each and every fish rescue decision.

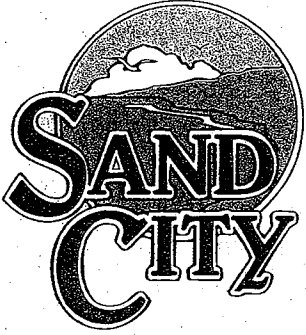
I sincerely hope that this response helps you to understand our position, and that you will continue to support our efforts in the Carmel River.

Sincerely,



Dick Butler  
Santa Rosa Area Office Supervisor  
Protected Resources Division

cc: Kevan Urquhart, MPWMD, Monterey, California  
Jeffrey Jahn, NMFS, Santa Rosa, CA  
Joyce Ambrosius, NMFS, Santa Rosa, CA  
Dale Mitchell, CDFG, Fresno, California  
Margaret Paul, CDFG, Monterey, California



August 3, 2007

Mr. David Berger  
 General Manager  
 Water Management District  
 5 Harris Court  
 Monterey, California 93942

RECEIVED

AUG 03 2007

MPWMD

Dear Mr. Berger:

The City of Sand City is proud to submit the enclosed application for a water distribution permit for our Sand City Water Supply Project (SCWSP). As discussed at our meeting of July 30, 2007, this application is for a single connection to the California-American Water (CAW) system. This 300 acre-feet per year, reverse osmosis, brackish water desalination plant and ancillary facilities won unanimous approval from the California Coastal Commission in May, 2005. Such approvals by the Coastal Commission are reserved for projects that enhance or save the environment in some way - and that is why our project received the vote it did. And, because of significant environmental benefits offered by the project, we request that your staff expedite application review. The city has received an excellent bid price for the desalination plant and equipment that needs to be acted upon by the city in order to lock-in our costs. An expedited review process will also speed efforts to reduce pumping in both the Carmel River and Seaside groundwater basins that are in overdraft, thereby avoiding potential fines and penalties during the current dry year.

From its inception, Sand City staff and consultants closely followed coastal commission deliberations which ultimately formed their 2004 guidelines for the construction and operation of desalination facilities in California. These guidelines stressed the following main principles: (1) a preference for brackish water desalination versus seawater desalination due to energy savings and reduction of brine discharge; (2) plant design exclusive of direct intake or outfall in the ocean in order to eliminate impingement and entrainment of marine organisms; (4) the water derived from the facility should be coordinated within regional water planning efforts; and (5) the growth allowed by the increased water supply should be consistent with certified local coastal plans. Our proposed desalination facility meets all of these standards and more.

Because Sand City is a "land-locked" community where development and redevelopment is limited to urban "infill" opportunities, the city will not need all of the 300 acre-feet of water for at least 15 to 20 years. Furthermore, we do not have any development projects on a "waiting list". In the meantime, working with California-American Water, the regional water purveyor will be able to reduce pumping in the Carmel River and/or Seaside groundwater basin by 300 acre-feet immediately following Day One operations of the plant. The City and CAW are working on a business agreement to make this happen and our arrangements should be concluded within the month.

The project has not changed since it received coastal commission approval (and an extension in June, 2007), but the operational characteristics of the project have changed. The certified Environmental Impact Report (EIR) for the project accurately describes

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 1 Sylvan Park,  
 Sand City, CA  
 93955

Administration  
 (831) 394-3054

Planning  
 (831) 394-6700

FAX  
 (831) 394-2472

Police  
 (831) 394-1451

FAX  
 (831) 394-1038

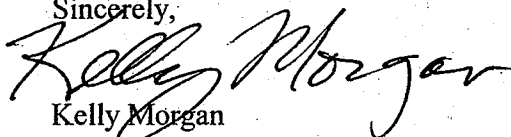
Incorporated  
 May 31, 1960

the environmental impacts of a 300 acre-feet per year desalination facility and that capacity has not changed. However, due to our inability to resolve language in State Water Resources Control Board (SWRCB) Order 95-10 at the time of EIR certification, we found no practical way of moving forward with the project except by disconnecting from the Cal-Am system. That misconception of the Order has since been rectified by a formal opinion by the SWRCB that recognizes the "second part" of the Order allowing increased pumping from the Seaside groundwater basin where our brackish water aquifer lies, thereby giving Sand City the ability to work with CAWS in a seamless way (see enclosed application materials). This cooperative effort with CAWS will save the City approximately \$4 million in water storage costs related to fire flow and water pressure requirements and emergency connections costs that would otherwise be attributable to a "stand-alone" system. It will also allow the Monterey Peninsula current ratepayer a "water cushion" in times of drought and an insurance policy against fines being imposed by the SWRCB. It should also be noted that our city attorney is working with your district's counsel to prepare a companion ordinance to insure that the project is consistent with the EIR's conclusion that significant CAWS pumping reductions will be attained in the over-drafted groundwater basins.

Our project was also awarded a \$2.9 million grant from the Department of Water Resources (DWR). The DWR jury recognized the net beneficial impacts of the proposed project and the state-of-the-art nature of the plant design. Our plant design will result in virtually no brine being discharged to the ocean due to the constituency of the brackish source water and the 40 percent recovery rate of the plant, which will leave a byproduct (reject) water at the same salinity as Monterey Bay.

In conclusion, this is a simple project with the aforementioned benefits verified by some of the best analysts in the business. For our hydrogeological analysis, based on four years of test pumping near the coast, we used Martin Feeney, the preeminent hydrogeologist in the area. For assistance with desalination plant design, our consultant was Separation Processes, the leading membrane technology peer review group in the country. We believe we did our homework. It is my recommendation that City staff and consultants meet with your staff at your earliest convenience to discuss this project in detail.

Sincerely,



Kelly Morgan  
City Administrator

Enclosure: Application Materials Under Separate Cover

C: City Council  
City Attorney  
Department Heads

waterperмитtrans.1



## MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

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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 10, 2007

Mr. Kelly Morgan  
City Administrator  
City of Sand City  
1 Sylvan Park  
Sand City, CA 93955

Dear Mr. Morgan:

I am writing to acknowledge receipt of your August 3, 2007 letter transmitting an application for a Water Distribution System (WDS) permit from the Monterey Peninsula Water Management District (District or MPWMD) for the Sand City Water Supply Project (Project). The application has been forwarded to Henrietta Stern, the District's staff member responsible for processing WDS permit applications. As you know, Ms. Stern already has advised your project manager, Steve Matarazzo that the Project's proposed annual production amount triggers the District rule requiring Board of Directors consideration of the City's WDS permit application. She also communicated to him certain initial questions District staff has identified that require clarification or supplemental information, to enable a determination that the permit application is complete.

Your letter requests that District staff consider expedited processing of the City's WDS permit application, and cites several reasons in support of that request. First, you indicated that initially, and for several years thereafter, all of the potable water produced by the Project is expected to be available to California American Water (CAW) to help reduce the magnitude of pumping from the Carmel River and/or Seaside Groundwater Basin needed to meet daily customer demand. You also noted that the California Coastal Commission (CCC) unanimously approved the Project in May 2005, and an. It is my further understanding that CCC amended that approval on June 18, 2007, and that special condition #11 of its Intent to Issue a Coastal Development Permit requires that the City--by not later than May 11, 2008, obtain approval of the Project from the MPWMD in order for the CCC to issue a Coastal Development Permit. You indicated that the City has received an excellent design/build proposal from an engineering contractor, and that you wish to "lock-in" its attractive price. Finally, you mentioned Order 95-10 of the State Water Resources Control Board that placed a strict annual limit on CAW's production from the Carmel River, and which could result in the company and/or ratepayers facing potential state-imposed fines if CAW produces river water in excess of that limit.

August 10, 2007  
Mr. Kelly Morgan  
Page 2 of 2

CAW also is facing a court-ordered "ramp down" of its allowed annual production from the over-drafted Basin of approximately 500 acre-feet, in only 17 months, unless "non-native" water resources can be found or created to supplant that amount of Basin pumping.

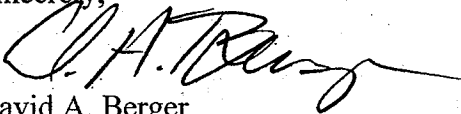
For all of the reasons described above, I have decided it is in the public interest that a determination by the District Board on the City's WDS permit application be made as soon as practicable. Accordingly, I have instructed Ms. Stern and other affected District staff to give the City's application priority status among all other pending WDS applications.

Finally, your letter mentions that the City Attorney is working with District General Counsel, David Laredo on a "companion" ordinance for consideration by the Board in conjunction with the WDS application. You stated that such an ordinance would ensure consistency with the City's EIR conclusion that the Project would result in significant reduction of CAW's Seaside Basin pumping. While that may or may not be true, the purpose of the ordinance suggested by Mr. Laredo would be to legislatively secure Project water for future CAW connections within Sand City, in the event the District Board approves the City's WDS permit application. I have enclosed for your reference an additional copy of Mr. Laredo's May 29, 2007 memo addressing applicability of District WDS rules to a potential City permit application for the Project, in which he makes this suggestion. Ms. Stern referenced and attached this memo to her June 1, 2007 letter to Mr. Matarazzo, which provides detailed information on the District's WDS permitting standards and application process.

I trust that this letter adequately responds to your request in regard to priority processing of the City's WDS application for the Sand City Water Supply Project. I would urge that you advise City staff and consultants to be as diligent as possible in responding to Ms. Stern's requests for any and all additional information and data that is required, in order to ensure expedited processing of your application.

Feel free to contact me at 658-5650, if you have any questions.

Sincerely,



David A. Berger  
General Manager

Enclosure (1)

cc: Board of Directors  
Henrietta Stern, District Project Manager  
David C. Laredo, General Counsel

**De LAY & LAREDO**

Attorneys at Law  
606 Forest Avenue  
Pacific Grove, California 93950

Paul R. De Lay  
David C. Laredo  
Heidi A. Quinn  
Fran Farina, of Counsel

Telephone (831) 646-1502  
Facsimile (831) 646-0377

May 29, 2007

TO: David Berger

FROM: David C. Laredo

RE: SAND CITY DESALINATION WATER DISTRIBUTION SYSTEM

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You have requested our review of Monterey Peninsula Water Management District (District) processes that should apply to any application for a Water Distribution System (WDS) permit for the City of Sand City's (City) proposed desalination project. This project is likely to include brackish water extraction wells, a reverse osmosis treatment plant, a brine disposal system, and other appurtenant facilities.

It is our understanding that production facilities for the proposed desalination project shall be owned by the City, but those facilities will be operated by a non-City entity – either California American Water (CAW) or another American Water subsidiary. Potable water produced by the desalination plant would thereafter be delivered via a single Connection to the CAW WDS with the intent that this water be wheeled through the CAW network for distribution and use to new CAW Connections within the City's corporate limits (excluding the Ghandour property). The capacity to produce desalinated water from the City-owned plant and WDS is intended to be reserved solely for delivery to new CAW Connections within the City.

An ancillary interim use of desalinated water, until such time as the production capacity for the City WDS is entirely used by new Connections, will enable CAW to serve its existing Connections with this alternate supply, thus reducing CAW's demand on its existing resource network.

Under this scenario, a series of questions have arisen.

What District Rule governs the proposed WDS Application?

As to the proposed City desalination plant, Rule 20 requires a Permit before any Person creates or establishes a Water Distribution System. This Rule explicitly states, "Desalination, reclamation or importation facilities located within the District are not exempt because the Source of Supply is considered to be the water emanating from a facility within the District."

As to the use of the CAW WDS to wheel water developed by the proposed City WDS, Rule 20 also provides, "An Owner or Operator of a Water Distribution System shall not modify, add to or change his/her Source of Supply, location of uses, change annual production or Connection limits, or expand the Service Area unless that person first files an application to do so with the



District and receives an amended creation/establishment Permit.” Desalinated water would constitute a Source of Supply for the CAW WDS as that term is defined to include “ground water, surface water, reclaimed water sources, or any other water resource where a person, owner or operator gains access by a water-gathering facility.” This applies to water produced from “any device or method, mechanical or otherwise.”

Existing District Rules adequately address each of the actions referenced above, and do not require amendment to either create the City WDS or amend the CAW WDS as contemplated by the proposed project. District staff may accept and process applications associated with the proposed desalination project at any time.

#### Who should the Applicant be for the City Desal Project?

The City should be the Applicant for the proposed desalination WDS. District Rules require that the term “Applicant” refer to the “person or persons responsible<sup>1</sup> for completing the requirements of an application.” Since the City proposes to own all facilities associated with the desalination project, the City is the appropriate Applicant for Rule 20 and 22 purposes. Rule 11 defines “Owner” as the “person to whom a water-gathering facility is assessed by the County Assessor, or, if not separately assessed, the person who owns the land upon which a water-gathering facility is located.” The fact that City intends to contract with CAW or any other party to operate the facility, and the fact that City intends to sell the product water and wheel it through the CAW system, is irrelevant to the District’s direct interaction with the City.

#### Will CAW need to amend its WDS Permit to accept the City project water?

Yes. District Rules 21C and 22E require issuance of a new and amended WDS permit if CAW proposes to add a new source of supply to its system. As noted above, desalinated water would constitute a Source of Supply for the CAW WDS.

#### What CEQA process should apply?

As to the City WDS application, the City has certified a Final Environmental Impact Report (FEIR) for this project. In relation to this project, the District is a Responsible Agency for CEQA purposes. In exercising its discretion on permits for the project, the District is required to ensure that the FEIR adequately addresses issues within its domain. Sections on hydrology and cumulative impacts must be examined to ensure these are adequate for District purposes. The FEIR should also ensure consistency with requirements set by the District’s rules. Should the FEIR not address District issues and concerns in full, additional documentation in accordance with CEQA may be required. Prior to final approval of the WDS, the District shall be required to follow the process and make findings for this project as required by CEQA Guidelines section 15096.

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<sup>1</sup> See also Rule 11 definition for Responsible Party.

## Sand City WDS – Preliminary Issues Identification

May 29, 2007

Page 3

As to the CAW WDS application, the District will need assess whether any issues arise that are unique to the CAW system, and whether these are adequately addressed in the FEIR for the City project. Separate Notices of Determination should be posted for approvals related to the City WDS permit and the CAW WDS permit amendment.

What is the Service Area for the proposed WDS?

The City WDS Application should define a proposed Service Area in which the desalinated product water will be available and used. The proposed Service Area must be reviewed to determine consistency with representations made respecting the project to the State Water Resources Control Board (SWRCB)<sup>2</sup>.

What System Capacity and Connection Limits Shall Apply?

As a condition upon the issuance of any WDS permit, the District is required by its Rule 22, among other matters, to establish a System Capacity and total number of Connections that may be served by that system.

Means to reserve desalinated water for CAW Connections within the City's boundaries

It is contemplated that the proposed project will include means by which the desalinated water is reserved for new CAW Connections within the City's boundaries. Without this step, the addition of a new Source of Supply to the CAW WDS might raise issues relating to amendment of the CAW WDS Allocation system.

The City-owned desalination project presents a scenario that is quite dissimilar to that presented by the Canada Woods WDS. In Canada Woods the water distribution facilities, water right and land upon which the new connections are situated, are all owned by a single entity. Additionally, the Canada Woods WDS does not use the CAW WDS to wheel water. Likewise, the City-owned desalination project differs significantly from Quail Meadows where the overlying landowner was able to document conserved water which was then made available through the CAW WDS to that same property owner.

The project proponent may propose any feasible means by which the desalinated water is to be dedicated to specific properties. One method could be a bilateral contract between the City and CAW, with subsequent amendment to the CAW allocation. This approach may be problematic, however, given uncertainties surrounding CAW's other sources of supply and possible need to update the District's Allocation EIR. Another approach could be modeled upon the Carmel Area Water District/Pebble Beach Community Service District (CAWD/PBCSD) recycled water project model wherein the District enacted an ordinance to grant a Water Entitlement to the fiscal sponsor.

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<sup>2</sup> See, e.g. CAW letter to Victoria A. Whitney, December 12, 2005.

### Ordinance to Establish Water Entitlement

It would be possible to create a City-owned Water Entitlement that positively correlates to the yield of the desalination project (assumed to be 300 AFA). Such an entitlement would create and clarify the right to use water from that WDS. This process would appear to parallel the similar circumstance wherein District Ordinances 39 and 109 established the water entitlement for the exclusive benefit of Pebble Beach Company and two other fiscal sponsors that underwrote costs for the CAWD/PBCSD project. If a similar approach is followed, an ordinance would create the Water Entitlement, set terms and conditions for persons or entities eligible to benefit from the entitlement, and establish means by which Permits issued in reliance upon the entitlement can be tracked.

### Conclusion

District staff can begin processing the City's Application to Create a WDS pursuant to District Rules 20, 21, 22 and 40 (Level 4). District staff should concurrently process an Application to Amend the CAW WDS pursuant to Rules 21C and 22E.

The District should ensure that its actions are consistent with, or properly and regularly distinguished from, approval conditions that may apply from the following:

- California Coastal Commission Coastal Development Permit
- SWRCB Orders, Decisions or communications pertaining to the proposed WDS
- Certified FEIR on City Desalination Project from City
- Agreement(s) and correspondence between City and CAW or other system operators
- California Public Utility Commission orders related to CAW Service Area
- Seaside Basin Watermaster decisions
- State DHS and/or County Health permits