

EXHIBIT 20-L


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June 22, 2006

TO: Andrew M. Bell, District Engineer
FROM: David C. Laredo, District Counsel 
RE: Water Rights Relating to Sand City Desalination Projects

This memo provides an overview of water rights associated with desalination plants that may be proposed for the Sand City area, as requested by board members in relation to the MPWMD 2005-2006 Strategic Plan adopted on October 18, 2005.

The City of Sand City has developed a desalination concept that may include construction of a 300,000 gallon-per-day desalination project located in Sand City. The Sand City plan calls for desalination of brackish water derived from vertical well intakes from the Aromas Sands Formation, a groundwater formation that lies within the Coastal Subarea of the Seaside Basin.

The Monterey Peninsula Water Management District has developed a desalination concept that may include construction of a 7.5 million gallon-per-day desalination project also located in Sand City. The MPWMD plan calls for desalination of seawater derived either from coastal radial wells, or from more "offshore" horizontal (HDD) collector wells. While seawater does not derive from groundwater of the Seaside Basin, it is possible that water collected by the District intake could have an effect upon groundwater within the Coastal Subarea of the Seaside Basin¹.

The recent Seaside Basin Groundwater Adjudication of Judge Roger D. Randall in *California American Water v. City of Seaside, et al.*, Case M66343, imposed a "physical solution" aimed at eliminating over-drafting of native water from the Basin by Cal Am, the City of Seaside, and other original parties to the lawsuit. The decision adjudicated the relative priority of legal rights and allocated production amounts among the public and private entities that produce water from the Basin. The adjudication decision also addressed select issues pertaining to water rights for the City of Sand City desalination plan. That portion of the decision states, in part,

Sand City shall have the right to Produce Brackish Water from the brackish Groundwater aquifer portion of the Coastal Subarea of the Seaside Basin for

¹ Joe Oliver comments on the possible impact of an MPWMD District desalination plant upon a City of Sand City desalination plant, stating, "it is not likely, however, that the radial wells would increase the salinity at the Sand City Wells. See the discussion of water quality impacts on pages 8-37 of the Board Review Draft MPWMD EIR for a more detailed description." He adds, however, that the radial well configuration could cause an efficiency loss for the Sand City intake facilities.

the purpose of operating its proposed desalination plant, said Production being limited to the Aromas Sands Formation, so long as such Production does not cause a Material Injury. Upon receiving a complaint... the Watermaster may impose conditions on such Production of Brackish Water that are reasonably necessary to prevent such Material Injury.

Several of the terms set forth above are defined "terms of art." "Brackish Water" is defined to mean "water containing greater than 1,000 parts of chlorides to 1,000,000 parts of water." "Groundwater" means "all Water beneath the ground surface in the Seaside Basin, including Water from Natural Replenishment, Artificial Replenishment, Carryover, and Stored Water." "Material Injury" means a substantial adverse physical impact to the Seaside Basin or any particular Producer(s), including but not limited to: seawater intrusion, land subsidence, excessive pump lifts, and water quality degradation." "Water" includes "all forms of water."

The Seaside Basin Groundwater Adjudication decision explicitly addresses the occurrence of a Material Injury caused by the Production of Brackish Water by the City of Sand City desalination

plant affecting other groundwater producers.

The Adjudication decision also states that the Production amount to the Monterey Peninsula

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than those beneath the ground surface in the Seaside Basin, and also does not operate to limit production of seawater that does not adversely effect upon the Seaside Basin water resources.

Please do not hesitate to contact me if you have any question regarding this memo.

Sincerely,

De LAY & LAREDO

David C. Laredo

MPWMD/2006/Desal Water Rights (Sand City) Memo 6-22-2006