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Via Facsimile

Members of the Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Bldg. G  
Monterey, CA 93940

Re: Sand City Desalination Plant and Proposed Ordinance No. 132 --  
Conflict of Interest of Sand City Mayor David Pendergrass;  
Insufficient Safeguards and Unequal Treatment of Applicant Sand City

Dear Members of the Monterey Peninsula Water Management District Board of Directors:

I represent The Open Monterey Project, an unincorporated nonprofit association interested in public access to democratic processes. Members of The Open Monterey Project include City, Peninsula, and County residents. In this letter, The Open Monterey Project letter identifies a serious problem with the approval of Ordinance No. 132, as supported by the Mayor of Sand City, David Pendergrass. My client asks you to make the necessary corrections.

Sand City Mayor Pendergrass Has A Fundamental Conflict of Interest and Is Participating Both as a Decision-Maker and as a Project Applicant

The Open Monterey Project is concerned about Mayor Pendergrass' conflict of interest as the Mayor of the applicant, Sand City, and as Chair of the Water Management District Board of Directors. It is illogical and a conflict of interest to allow Mayor Pendergrass – the highest elected official of Sand City – to vote on Sand City's own applications to the Water Management District. As directors, if any of you had an application to the Water Management District that required approval by the Board of Directors, you would not sit in judgment on your own application. Similarly, if you were the president of a corporation that had an application that required Board approval, you would step down from the Board's decision. That is the only proper approach.

Unless Mayor Pendergrass steps down, the Board should direct its independent legal counsel to research the apparent conflict of interest. The Board should also revisit its October approval of Sand City's desalination plant, because Mayor Pendergrass participated in that discussion and approval.

Unfair and Unequal Treatment of Sand City

The Water District is treating Sand City favorably and in an unequal manner from other applicants similarly situated. When the Pebble Beach Company wanted similar

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approvals for a Board-approved water credit scheme, the Board retained outside counsel – paid for by the applicant, not the Water District – who worked very hard to negotiate the best terms and conditions that protected the public and the public trust resources. Those conditions did in fact protect the public and the public trust, and the outside attorney served as the attorney for the entire Board.

Here, the District's legal counsel finds himself in the awkward and unenviable position of representing the Mayor as the Chair of the Board, who also is the representative of the applicant. To compound his difficulty, he is the City Attorney of a different City which is likely to be impacted by the decision here, including the terms that are imposed or negotiated if the matter is approved. The City of Monterey is now actively considering its own desalination plant, and there will likely be others. The procedures the Board approves for the Sand City request will be used as a precedent for other cities, as they line up for their own proprietary desalination plants.

The Board should direct staff to use outside counsel, and direct counsel to draft and negotiate appropriate terms on behalf of the District, without regard for the interests of the Mayor of the applicant. The Board's outside counsel for the Pebble Beach proposal was Bold, Polisner, of Walnut Creek.

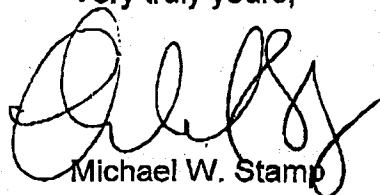
Finally, the analysis of the proposed ordinance fails to meet the District's CEQA responsibilities, as you are aware.

#### Request

These are important issues, and go to the credibility and integrity of the Board as a whole and of each of its members. Please consider these concerns carefully. Please do not act to approve the Sand City request tonight, and please ensure that Mayor Pendergrass does not use his appointed position on the Water Management District Board of Directors to intensify the conflict of interest he has already created. Please use outside counsel in order to avoid the further and additional conflicts that regrettably have arisen.

Thank you.

Very truly yours,



Michael W. Stamp