

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

January 24, 2008

TO: Chair Lehman, Board Members and General Manager

FROM: David C. Laredo

RE: PROPOSED ERRATA FOR ORDINANCE NO. 132 (SAND CITY ENTITLEMENT) – SECOND READING

The following are suggested edits are proposed to the second version reading of Ordinance No. 132 . None of these represent significant changes, and may be inserted in Ordinance 132 at tonight's second reading.

FINDINGS:

9. On the last line, capitalize "Service Area" and "System" so that it reads, "presently located within the CPUC-recognized Service Area for the CAW System". [Page 122¹]
14. On the last line, strike the second "MPWMD" so that it reads, "...and the rationing Rules of MPWMD under its Regulation XV." [Page 122]
18. In the second sentence, replace "CAW's" with "California American Water's."

A. SECTION TWO:

- B. Spell out the first "CAW" so that it reads, "The WDS Permits allow California American Water to take delivery into the CAW System...." Also, on lines 2 and 5, the word "water" after "Potable" should be in lower case. [Pages 122 & 123]

C. SECTION THREE

The District received text from Sand City² for a portion of Rule 23.6-A which was inadvertently excluded. The text [Page 124] should read:

- A. There is hereby established the Sand City Water Entitlement which confers upon Sand City a vested property right to take up to 206 Acre-Feet per Water Year of Potable water from the California American Water Distribution System (CAW

¹ All bracket page numbers refer to the 1/24/08 Board packet.

² Memorandum from City of Sand City dated November 8, 2007 submitted at the Rules and Regulations Review Committee meeting on that day.

System). For so long as the Sand City Water Entitlement continues: (i) Sand City shall own the Sand City Desalination Facility; (ii) Sand City shall cause the Sand City Desalination Facility to produce 300 Acre-Feet of Potable water per Water Year; (iii) Sand City shall cause 300 Acre-Feet of Potable water per Water Year to be delivered to the CAW System through a single Connection as permitted by the District; and (iv) California American Water shall continue to accept delivery from the Sand City Desalination Facility of 300 Acre-Feet of Potable water per Water Year through a single Connection as permitted by the District. The Sand City Water Entitlement shall continue for a period of seventy-five (75) years so long as the Sand City Desalination Facility is properly maintained and continues to be able to reliably produce 300 Acre-Feet of Potable water acceptable for use by the CAW System.³

In Rule 23.6-D on the last line, replace “ordinance” with “Rule.” [Page 124]

In Rule 23.6-E on the first line, replace “ordinance” with “Rule.” On the second line, delete the word “any” before “all.” On the seventh line, capitalize the word “Users.” [Page 125]

D. SECTION FOUR

In Rule 21-E-2, the new text should read “*An Assignment of a Portion of Monterey Peninsula Water Management District Ordinance No. 132 Water Entitlement and Water Use Permit*” specific to the application Site. This then matches the definition of “Assignment Document” in Section Six. [Page 125]

E. SECTION FIVE

The introductory sentence to Rule 23.1 which precedes “A. Process” shall now read, “The Application and Process for Water Use Permits issued after May 27, 2004 shall be controlled by this Rule read in conjunction with *either* Rule 23.5 *or* Rule 23.6. This sentence does not appear in the current version of Ordinance No. 132. [Page 126]

F. SECTION SIX

The new Rule 11 definition for *Sand City Sites* should capitalize the words “Service Area” on line three and delete the words “Water Distribution after “CAW” and before “System” so that it reads, “*the Service Area for the CAW System as recognized in....*” [Page 128]

The term “Water Use Permit” incorporated into District Rule 11 pursuant to recently enacted Ordinance No. 128 shall be modified by adding the words “*or Rule 23.6.*” at the end of the last sentence to that definition as found in Rule 11. [To be added to to Section 6, at Page 128]

³ This sentence was added at the Board’s request and agreed to by Sand City to address what happens if the brackish water supply is inadequate to produce the required 300 Acre-Feet of Potable water. This text mirrors Condition 28 of Sand City’s WDS Permit.