



**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 2/28/08 MPWMD BOARD PACKET

Attached are copies of letters received between January 12, 2008 and February 19, 2008. These letters are also listed in the February 28, 2008 Board packet under item 22, Letters Received.

Author	Addressee	Date	Topic
Dennis McElroy	David A. Berger	1/23/08	Sale of Water from Pebble Beach Company's Potable Water Entitlement – CAWD/PBCSD Wastewater Reclamation Project <i>February 19, 2008 Response from David A. Berger is attached.</i>
Dennis McElroy	Regina Doyle	2/13/08	Sale of Water from Pebble Beach Company's Potable Water Entitlement – CAWD/PBCSD Wastewater Reclamation Project

McELROY CONSTRUCTION COMPANY

BOX 31 MONTEREY CALIFORNIA 93942 FAX 831 372-6334 TEL 831 372-1250

January 23, 2008

RECEIVED

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

JAN 23 2008

MPWMD

Dear Mr. Berger,

I am writing to you on the advice of Gabriella Ayala in the Permit section of your offices. I had inquired about the status of potable water rights being held by the Pebble Beach Company as a result of their efforts in creating non-potable water for their irrigation purposes. My understanding is that the amount of water held by them is in excess of 300 acre-feet and that a portion of that is considered by them to be surplus of their needs.

I have recently learned that Mark Stillwell of the Pebble Beach Company had offered at your December 10, 2007 Board Meeting that the Company would consider making available some of that water to other jurisdictions for their uses.

I represent two property owners in Pacific Grove who have had residences planned and approved for their properties and have been on the city water waiting list since 2001. They have been unable to advance their projects to construction because the city will not allocate water for their use and will not allow them to drill wells or seek means of providing water other than through Cal Am Water Company. I have watched the City of Monterey, after great effort and deliberation, enable a local business to acquire a water connection sufficient for two toilets and thereby allow the business to operate fully. All of us on the Peninsula witness the massive construction taking place on Cannery Row and on the former Fort Ord property and are baffled and embarrassed that our officials have been unable to provide water for the small demand which is represented by those assigned positions on water waiting lists of various jurisdictions.

The opportunity of use of surplus water offered by the Pebble Beach Company seems real and immediate and has given hope to many people. I am writing to ask that you seek authorization from your Board of Directors to enter into immediate negotiations with the Pebble Beach Company to secure rights of water or to otherwise allow transfer of those water rights to neighboring jurisdictions. Doing so would enable many people on various water waiting lists to advance their stalled projects to a wonderful reality.

Especially in contrast to the continuous negative news that we all receive daily, it would be such a welcome and greatly appreciated gesture if you would pursue the allocation of this surplus water to those so desirous and so in need of it to fulfill their long-awaited plans.

Thank you for your consideration. Please call if you should have any questions or need additional information.

Sincerely,


 Dennis McElroy



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February 19, 2008

Mr. Dennis McElroy
McElroy Construction Company
P.O. Box 31
Monterey, CA 93942

Dear Mr. McElroy:

I am writing in response to your January 23, 2008 letter regarding the status of Pebble Beach Company's sale of a portion of its potable Water Entitlement. Specifically, you were interested in knowing about the possibility of the Monterey Peninsula Water Management District (District) allowing Pebble Beach Company (PBC) entitlement sales to properties outside the Del Monte Forest.

Last July, I received a letter from the PBC Executive Vice President, Mark Stilwell requesting that the District Board consider initiating an ordinance that would allow sale of its Water Entitlement to any location within the California American Water service area. However, prior the District Board being able to initially consider it, Mr. Stilwell sent me a follow-up letter withdrawing that request. I've attached copies of Mr. Stilwell's letters for your information. If PBC re-submits a written request in the future that the District consider expanding the Water Entitlement sales area, I will place it on the next available Board agenda. Our Board agendas are posted to the District's website (www.mpwmd.dst.ca.us) several days prior to each monthly meeting, so you'll have plenty of opportunity to monitor them for this potential agenda item. You can also request a copy of Board agendas to be e-mailed to you at no cost, by contacting Sara Reyes on the District staff (658-5610).

Sincerely,

David A. Berger
General Manager

Enclosure (2)

cc: Chair/Board of Directors
Mr. Mark Stilwell, Pebble Beach Company
Water Demand Manager
District Engineer



PEBBLE BEACH
COMPANY

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AUG 17 2007

MPWMD

VIA FACSIMILE and US Mail

August 17, 2007

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

Dear Mr. Berger:

I am writing to withdraw the request set forth in my letter to you dated July 27, 2007. While well underway, the advanced treatment portion of the Reclamation Project Expansion is estimated to be only 20% complete at this point. After further consideration, we have decided that it would be best to wait until this last phase of the Project Expansion is closer to completion, and we have a more definitive estimate of the total final costs of the Expansion and the total final revenues from water entitlement sales, before we move forward on any request to sell water outside the area currently approved under Ordinance 109.

If you have any questions, please feel free to call me at 625-8449. Thank you for your assistance.

Sincerely,

PEBBLE BEACH COMPANY

Mark Stilwell
Executive Vice-President and
General Counsel

Cc: David Laredo, Esq.
Ray von Döhren, General Manager, CAWD
Craig Anthony, General Manager, PBCSD

LEGAL AFFAIRS

Post Office Box 1767, Pebble Beach, California 93953 831-647-7500 telephone 831-625-8411 facsimile



PEBBLE BEACH
COMPANY

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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

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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.

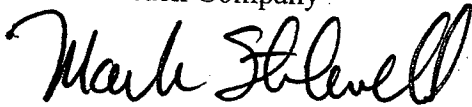
With respect to review of PBC's request under the California Environmental Quality Act ("CEQA"), our legal counsel has looked at this question carefully, and we believe compliance with CEQA can be achieved without the necessity of a supplemental or subsequent Environmental Impact Report ("EIR"). As you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

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,¹ 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

¹ 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.

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February 13, 2008

FEB 15 2008

MPWMD

Ms. Regina Doyle, Board Member
 Monterey Peninsula Water Management District
 P O Box 85
 Monterey, CA 93942-0085

Dear Ms. Doyle,

Enclosed for your information is a copy of my January 23 letter to Mr. David Berger regarding the subject of water allocation to those on water-waiting lists of various jurisdictions, including Pacific Grove. The possible allocation of water from the Pebble Beach Company seems to be a perfect solution for the many who have for years languished on water-waiting lists without meaningful progress toward a water supply which would satisfy their needs. There is a total demand of only 5.4769 acre-feet of water for the entire Pacific Grove list, comprised of 40 residents and 3 businesses.

If the supply of water offered by the Pebble Beach Company is sufficient to satisfy the needs of the area's current water-waiting lists, why cannot this transfer be allowed and expeditiously accomplished? This opportunity seems to represent a real and immediate solution for the needs of many local people and it seems also to be an opportunity for the Water Management District to generate a positive impact in the community in contrast to the many years of defacto moratorium against new water uses, even though the uses may be insignificant in scale.

Even though this solution would be incremental to the larger needs of the area, it would represent a very important solution for those affected.

Thank you for your consideration of and assistance with this matter.

Sincerely,


 Dennis McElroy

copy: David Berger

McELROY CONSTRUCTION COMPANY

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January 23, 2008

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