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July 17, 2008

VIA E-MAIL

Board of Directors
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942-0085

Re: Comment on Revised Ordinance No. 134

Dear Board Members:

This letter is submitted on behalf of Bishop, McIntosh & McIntosh, Laguna Seca Resort, Pasadera Country Club, and York School. These entities each hold an Alternative Production Allocation in the Laguna Seca Subarea under the Seaside Basin adjudication judgment. The Seaside Basin Amended Decision ("Amended Decision") provides that parties to the adjudication with Alternative Production Allocations have "a prior and paramount right over those Parties Producing under the Standard Production Allocation." Amended Decision, Section III.B.2. To avoid possible conflicts between the Monterey Peninsula Water Management District ("District") revised Ordinance No. 134 ("Ordinance") and the Amended Decision, we request that you modify the Ordinance to specify that Alternative Production Allocations granted under the Amended Decision are "superior, unimpaired water rights" for purposes of the Ordinance.

Under the Ordinance, Stage 4 through Stage 7 Water Rationing does not apply if "proof is provided to demonstrate a superior, unimpaired water right to exempt the Water Distribution System, private well, or Water User from . . . rationing restrictions." See Ordinance Rule 164.B.1; Rule 165.B.1; Rule 166.B.1; and Rule 167.B.1. The reference to superior, unimpaired water rights in the Ordinance properly reflects that the water rationing plan will respect the relative priority of water rights when rationing water. Because the Amended Decision established Alternative Production Allocations as paramount water rights, we believe that the explicit recognition that these are "superior, unimpaired water rights" for purposes of the Ordinance will clarify the Ordinance and avoid confusion in its implementation. Based on discussions with Mr. Darby Fuerst and Mr. David Laredo, we understand that treatment of Alternative Production Allocations as superior unimpaired water rights is consistent with the District's intent.

This concern can be addressed by modifying Rule 160 G as indicated below in redline-strikeout form:

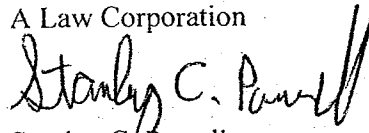
Stage 4 Water Rationing through Stage 7 Water Rationing may apply to all Water Distribution System Water Users and Water Users within the Monterey Peninsula Water Resources System as a response to limited water supply. These stages shall also serve as responses to emergency situations where immediate reductions in water use are necessary to ensure public health, safety or welfare. This regulation authorizes the Board of Directors to determine by resolution that any Water Distribution System or set of Water Users within the Monterey Peninsula Water Management District shall be subject to Stages 4 Water Rationing through Stage 7 Water Rationing as provided in this Regulation, except if proof is provided to demonstrate a superior, unimpaired water right to exempt the Water Distribution System, private Well, or Water User from the water rationing restrictions. Alternative Production Allocations approved by the Seaside Decision are an example of a superior, unimpaired water right.

We recognize that neither the existing rules nor the revised Ordinance presently apply to the Laguna Seca Subarea. However, we understand that the District staff are preparing another new ordinance for presentation to the District Board which will expand the scope of this ordinance to the Laguna Seca Subarea. Rather than comment on this issue at that time, we believe it would be more efficient for the Board to address this issue now.

Thank you for consideration of this comment.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Law Corporation



Stanley C. Powell

SCP

cc: Eric N. Robinson
Vid Prabhakaran (counsel for Pasadera County Club)
Elizabeth Gianola (counsel for York School)
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Darby Fuerst
David Laredo

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