

EXHIBIT 17-D



June 24, 2011

Judy and David Beech  
1450 Manor Road  
Monterey, CA 93940

Jose Flores  
#5 Zaragoza View  
Monterey, CA 93940

Pisenti Family Trust  
c/o Ed Kramer  
317 Montclair Road  
Los Gatos, CA 95032

**SUBJECT: MPWMD GUIDANCE FOR 2011 WELL TESTS TO DETERMINE  
IMPACT ASSOCIATED WITH APPLICATION FOR "FLORES" WDS (Well #1) AND  
"PISENTI" WDS (Well #2)**

**MPWMD APPLICATION #20110401FLO; APN 103-071-002; 564 Monhollan Road, Monterey  
MPWMD APPLICATION #20110401PIS; APN 103-071-019; 577 Monhollan Road, Monterey**

Dear Mr. and Mrs. Beech, Mr. Flores and Mr. Kramer:

As you know, the Monterey Peninsula Water Management District (MPWMD or District) has been contacted by Mr. and Mrs. Beech regarding concerns about impact to their well at 1450 Manor Road in Monterey, and has requested that another test be performed in which his well can be monitored. To facilitate this request, consulting hydrogeologist Aaron Bierman is working to arrange a testing date and has also asked a variety of technical questions about the Beech well, which require the installation of a sounding tube. Before proceeding, Mr., Beech, in a June 21, 2011 e-mail to Henrietta Stern, MPWMD Project Manager, asked for written confirmation of certain assumptions (copy of e-mail enclosed as **Enclosure 1**). This letter provides: (a) some basic facts relevant to this situation, (b) responds to the Beech e-mail assumptions, and (c) provides direction to the applicants.

On June 23, 2011, I met with Ms. Stern, Jonathan Lear, MPWMD Senior Hydrogeologist, and Robert Marks (by phone) of Pueblo Water Resources (MPWMD hydrogeologic consultant), to review the relevant files and information. Though the District and the Monterey County Health Department (MCHD) coordinate on regulatory issues, this letter does not speak for that agency.

**Relevant Regulatory and Hydrogeology Facts**

MPWMD has written procedures on how well testing must be performed. The procedures include alternative protocol for conservative calculations if certain physical data cannot be

obtained. Examples include the number of days to 95% recovery and the inability to monitor adjacent wells. It is noted that the procedures allow for variations on a case-by-case basis, if warranted; written permission is required. The procedures are on the District website at: [http://www.mpwmd.dst.ca.us/pac/wds/WDSPermits/WellAssessProcedures\\_ver3edit\\_14sep05.pdf](http://www.mpwmd.dst.ca.us/pac/wds/WDSPermits/WellAssessProcedures_ver3edit_14sep05.pdf)

MPWMD strives to apply the procedures equally to all applicants. Retroactive changes to rules are not allowed.

The District procedures accept well testing results from June 1 through November 30 unless written exceptions are granted for testing outside this period. MCHD staff has advised the District that MCHD accepts well testing from June 1 through November 30 for single-connection situations and from August 1 through October 31 for multiple-connection systems.

The time a well takes to attain 95% recovery has no bearing on offsite impacts. Also, the determination of connectivity of one well to another is not affected by when the test is performed (i.e., same conclusion whether testing occurs in June or November).

#### **Beech E-Mail Assumptions (June 21, 2011)**

**Assumption #1:** The District does not agree with Assumption #1 as written. The October 2010 tests for Well #1 and Well #2 were valid and comply with District Procedures. Regarding recovery, an extra deduction on the well yield was applied using standard formulas because the 95% recovery was not attained by the specified time. Below is the procedure that addresses this point (Procedures, page 11, see last sentence).

**Step 2, Documentation of Drawdown and Recovery.** Drawdown and recovery data in the pumping and monitor wells shall be documented in a summary table(s) and shall include: static water level, flow meter totalizer readings, clock time, elapsed time since pump start (minutes), pumping water levels (feet below ground surface or specified reference point), drawdown (pumping water level minus static water level), elapsed time since pump stop (minutes), residual drawdown (non-pumping water level minus static water level). Water level recovery data shall be measured until the recovering water level in the pumping well reaches 95% of the pre-test static water level. If 95% percent recovery is not achieved after two times the pumping period has elapsed, then an evaluation of the test will be conducted by the District to determine whether or not the calculated yield should be reduced.

Regarding well monitoring, the tests for Well #1 and Well #2 comply with District Procedures in that standard calculations accepted by the District were used to substitute for lack of monitored information for neighboring wells. Below is the procedure that addresses this point (Procedures, page 3):

**6. Wells Monitored.** In all cases, the production well that is being tested shall be monitored as described in this section. In addition, nearby wells in the expected area of influence of the pumping well shall be monitored where feasible. The District recognizes that it may not be feasible to monitor all nearby wells due to logistical constraints (e.g., availability, monitoring equipment access, pumping requirements, etc.). Accordingly, in cases where nearby wells are not available for use as monitor wells during pumping tests, and the reasons for this are clearly documented in the *Assessment*, data developed from the production well shall be used to the extent possible to support the required analysis and evaluation.

However, it is noted that the Well #1 and Well #2 hydrogeologic reports (footnote #12) indicate that the information on the Beech well was not received before the tests, and thus Mr. Beech was not given the opportunity to allow monitoring. Given that the District files show that the well radius information was not provided to Bierman until after the testing for Well #1 and Well #2, this may be true for other neighboring wells. Thus, though the calculations are technically acceptable, the District concurs that the neighbors were not given the opportunity to agree to well monitoring. See Direction to Applicants below for resolution.

**Assumption #2:** The District partially agrees with Assumption #2. New tests to assess offsite impacts should be conducted if any neighbor with a well within 1,000 feet of Well #1 or #2 wishes to have their well monitored. If no neighbor desires or allows such monitoring, a new test is not necessary. See Direction to Applicants below for more information.

**Assumption #3:** The District concurs that neighbors will be notified of their option to request concurrent monitoring of their well. See Direction to Applicants below for more information.

#### **Direction to Applicants**

The Flores and Pisenti Well #1 and Well #2 applications should abide by the following direction:

1. Well testing conducted pursuant to District procedures, with an emphasis on offsite impacts to neighboring wells, may be conducted between June 1 and November 30, 2011.
2. At least 14 days before the scheduled test date, neighbors with wells within 1,000 feet of Well #1 and Well #2 should be contacted by Mr. Bierman (phone, mail, personal visit and/or e-mail) and asked whether they wish to have their well monitored, with the understanding that well monitoring means that their well cannot be used for the test duration (at least 3 days). Specify the terms of well monitoring to ensure understanding of technical compliance by the neighbors. Advise the neighbors that their answers should be received no later than 7 days before the scheduled test. If an answer is not provided by that time, it should be deemed to mean "no consent to monitoring."
3. If any neighbor within 1,000 feet of Well #1 requests that their well be monitored, then a test for Well #1 is required in 2011. If any neighbor within 1,000 feet of Well #2 requests that their well be monitored, then a test for Well #2 is required in 2011.
4. If no neighbors within 1,000 feet of Well #1 or Well #2, respectively, request or consent to well monitoring, then a test is not required because the October 2010 tests already addressed offsite impacts using calculations accepted by the District.
5. Based on the above, if testing is needed for both wells, Well #1 should be tested separately from Well #2 (in sequence, not together). The combined effect of the two wells may be calculated based on the Well #1 and Well #2 results. Each well shall be tested for 72 hours at a minimum of 3 gallons per minute. District procedures shall guide recovery, as specified above.

Please contact me at 831/658-5650 or [darby@mpwmd.net](mailto:darby@mpwmd.net) if you have any questions on this guidance. For procedural questions about the application process, the staff contact is Henrietta Stern at 831/658-5621 or [henri@mpwmd.net](mailto:henri@mpwmd.net).

Beech, Flores and Kramer  
June 24, 2011  
Page 4 of 4

Thank you for your cooperation in this matter.

Sincerely,



Darby W. Fuerst  
General Manager

Cc: Richard LeWarne, MCHD (via e-mail)  
Henrietta Stern, MPWMD (via e-mail)  
Joe Oliver, MPWMD (via e-mail)  
Jonathan Lear, MPWMD (via e-mail)  
Robert Marks, Pueblo WR (via e-mail)  
Aaron Bierman, Bierman HydroGeologic (via e-mail)

*Enclosure: 6/21/2011 email*

U:\Henri\wp\ceqa\2011\WDS2011\BEECH\Beech\_WellTestLetter\_20110624.docx  
Prepared by H. Stern, revised 6/24/11 as directed by DF

ENCLOSURE 1

Henrietta Stern

---

From: David Beech <dbeech@comcast.net>  
Sent: Tuesday, June 21, 2011 5:09 PM  
To: Aaron Bierman  
Cc: Henrietta Stern; Roger Van Horn; Joe Oliver; Paul Flores; Ed Kramar  
Subject: Re: Beech well/Pisenti testing -- Status update

Dear All,

This track seems to have diverged from what we thought was described in MPWMD Procedures, so we need to be sure we are all on the same page before continuing.

We would be grateful if MPWMD and MCEHD could confirm our assumptions below. Henrietta and Roger, if you need to go higher in your organizations to give definitive answers, could you please do so?

Assumptions

1. Now that MPWMD and MCEHD are aware of failures of compliance in the test reports for both Flores/Pisenti Well #1 and Well #2 (not only in regard to notification to nearby well owners and possible concurrent monitoring, but also in the intrinsic requirements such as, but not limited to, 95% recovery within a specified time, and continued pumping until 95% recovery is attained), their regulations do not allow them knowingly to approve those reports.
2. If the applicants wish to continue, both MPWMD and MCEHD require complete new tests of Well #1 and Well #2 to be performed in compliance with their respective written regulations. (The results can, of course, be merged into a single report for each well, as before.)
3. If such new tests are planned, owners of nearby wells will be notified of their option to request concurrent monitoring.

If those assumptions are correct, they describe the process with which we thought we were cooperating. If we all share those assumptions, then we look forward to proceeding from that formal notification, rather than being invited to sail into uncharted waters.

Best regards,

Judy and David Beech

Aaron Bierman wrote:

> To all;

>  
> I would like to address the hydrogeologic connectivity with the wells,  
> and, in order to do so, I will first need to complete a well  
> inspection of the Beech Well and obtain some information from him;  
>  
> As I understand, the Beech Well is for irrigation use; Questions:  
> How many Parcels does the Beech Well serve?  
> What type of pump is installed in the well?  
> What is the depth of the pump in the well?  
> Does the well have a sounding tube?  
> Do the well have a flow meter installed?  
> What is the flow rate?  
> What is the Static Water Level?  
> What is the Pumping Water Level?  
> What is the pumping frequency of your well? (i.e. does it perform  
> daily irrigation cycles?, if so, for how long does it pump? and what  
> is the flow  
> rate?)  
>  
> I would be able to answer most of these questions if I was able to  
> access your well, assuming it has a sounding tube. Without a sounding  
> tube I am limited in what information I can obtain. To monitor your  
> well, you may need to have a sounding tube installed (I can recommend  
> several contractors who could do this for you).  
>  
> With your permission, I have time this week to make it to your site  
> and perform the initial well inspection. Following initial well  
> inspection, I would like to schedule the pumping tests so that I can  
> determine which well, if any, are influencing your well. The plan is  
> to pump one well at a time while monitoring the other two.  
>  
> Currently, I have installed pressure transducers in the Flores/Kramer  
> wells to obtain baseline data. The data obtained from the pressure  
> transducers from these wells should provide additional information as  
> to whether your irrigation cycles have impact on the wells in question.  
>  
> If, for some reason you deny us to access your well, then, the  
> technical calculations performed using the project's water demand  
> (based on MPWMD  
> rules) is adequate to indicate that there is less than significant  
> impacts to your well (see previous BHgl reports).  
>  
> If we are denied access to your well, we request that MCEHB approve  
> the lot-line adjustment and that MPWMD approve the WDS permits.  
>  
> Thanks for your time and cooperation.  
>  
> Aaron Bierman  
>  
>  
> ----- Original Message ----- From: "Henrietta Stern" <henri@mpwmd.net>  
> To: <dbeeche@comcast.net>

> Cc: "Aaron Bierman" <abierman@comcast.net>; "Henrietta Stern"  
> <henri@mpwmd.dst.ca.us>  
> Sent: Friday, June 17, 2011 10:34 AM  
> Subject: RE: Beech well/Pisenti testing -- Status update  
>  
>  
> Hello Mr. Beech--  
> I don't think any agency would require (or could justify) that the  
> well pumping tests be carried out only in October -- that would be  
> considered to be unreasonable (or as the lawyers say, "arbitrary and  
> capricious") given the rules that are on the books that allow multiple  
> months for testing.  
>  
> If your position is "October or nothing" then you run the risk of a  
> test being performed that does not include physical monitoring of your  
> well.  
> There are calculations the hydrogeologist can use if permission for  
> physical monitoring of a well is not given.  
>  
>> From MPWMD's perspective, the goal is to assess whether there is an  
>> impact  
> to the Beech well, as you have asserted. I might note you are sending  
> out mixed messages of: (a) requesting a new test that includes  
> physical monitoring of your well, and (b) refusing to cooperate to  
> allow such monitoring during a reasonable time frame.  
>  
> I'm not going to become a mediator between you folks, so I suggest you  
> and Mr. Bierman work out something in good faith that is mutually  
> satisfactory.  
>  
> Best regards toward that end...  
> hs  
>  
>  
> Henrietta Stern  
> MPWMD Project Manager  
> PO Box 85, Monterey, 93942-0085  
> 5 Harris Court, Bldg. G, Monterey (Ryan Ranch)  
>  
> email: henri@mpwmd.net  
> phone 831/658-5621  
> fax 831/644-9560  
>  
> <http://www.mpwmd.dst.ca.us>  
> Please consider the environment - only print if necessary  
>  
>  
> -----Original Message-----  
> From: David Beech [mailto:dbeeche@comcast.net]  
> Sent: Thursday, June 16, 2011 8:08 PM  
> To: Henrietta Stern

> Cc: Aaron Bierman  
> Subject: Status update

> Dear Henrietta,

> I tried to reach you by phone, but I'd like to confirm that we are  
> preparing some questions of clarification for Mr. Bierman, and aim to  
> have them ready by Monday or Tuesday. (We shall be out of town  
> tomorrow  
> (Friday) through Sunday.)

> Since we are requesting that the tests be carried out in October 2011,  
> we have not given permission to enter our property prior to that.

> Regards,

> David