



July 26, 2011

Molly Erickson, Esq.
Law Offices of Michael W. Stamp
479 Pacific Street, Suite 1
Monterey, California 93940

Subject: Letter of July 11, 2011 on Behalf of Judy and David Beech

Dear Ms. Erickson:

This letter responds to your letter of July 11, 2011 on behalf of your clients, Judy and David Beech (Beeches), entitled "Appeal of Administrative Decisions in MPWMD Letter of June 24, 2011 to Judy and David Beech, et al." This response reflects careful review of your submittal with District Counsel in light of MPWMD Rules & Regulations.

In your submittal, you purport to tender an "appeal" related to administrative "determinations" of the Monterey Peninsula Water Management District (District or MPWMD). The body of your letter states "grounds for the appeal" to be "1. Unreasonable deadlines were imposed on the Beeches. 2. MPWMD well recovery procedures were not followed. 3. MPWMD unreasonably delegated its powers to the well applicant. 4. MPWMD did not require the applicant to retest. 5. The retest should use pumping rates not greater than the County estimated rates from the October 2010 rates."

The District has enacted Rules and Regulations to govern its actions, and Rule 70 sets the standard for appeals of District actions.¹ Rule 70, in its entirety, states:

Determinations of the General Manager or the District Engineer may be appealed to the District Board, in writing, within twenty-one (21) days after any such determination. Such appeal shall specify in writing the grounds upon which it is taken, and shall reference the provision of these Rules and Regulations which have been violated, and shall be accompanied by the fee prescribed in Rule 60, except where the issues raised in the appeal concern issues of public interest or environmental protection. Applicability of fee exemptions shall be determined solely by the General Manager. Within thirty (30) days of receipt of such appeal, the General Manager shall set a hearing on the appeal before the District Board and notify the appellant and/or Applicant in writing of the time and place of the hearing at least ten (10) days prior to the hearing and give public notice of the hearing date. An appeal may be filed by the Applicant, the General Manager, or any other Person. At said hearing the appellant and/or Applicant and other Persons may present

¹ Rule 70 was first enacted by Ordinance No. 1 (2/11/80); and later amended by Ordinance No. 2 (3/11/80), Ordinance No. 3 (7/11/80), Ordinance No. 6 (5/11/81), Ordinance No. 63 (6/15/92); Ordinance No. 104 (07/15/02), and Ordinance No. 125 (9/18/2006).

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evidence concerning the appeal. The Board may deny, approve or continue any appeal. The General Manager shall notify the appellant and/or Applicant within ten (10) days in writing by mail of the Board action taken; namely continuance, approval, conditional approval, or denial. Notice of the action taken shall be deemed to have been given when the written notification has been deposited in the mail, postpaid, addressed to the address shown on the application. Unless the Board otherwise determines, any Permit held by an Applicant for which an appeal has been filed pursuant to these rules and regulations shall be deemed suspended until the appeal has been resolved. Upon hearing the appeal, the Board shall also have the discretion to reduce and rebate in full or in part the fee for appeal otherwise set by Rule 60 if the Board finds that the appeal has provided a significant benefit to the public and/or the environment or in unusual matters.

Your July 11, 2011 letter states the Beeches have appealed "administrative decisions." Unfortunately, that letter fails to meet the standard set by Rule 70. The submission does not refer to a determination of the General Manager or of the District Engineer referenced in the MPWMD Rules & Regulations. The letter also fails to "reference the provision of these Rules and Regulations which have been violated." The letter purports to "simply seek reassurance that their existing well will not be harmed by the new well." Such relief cannot be provided by this appeal request.

As provided MPWMD Rule 22-A-5, any determination by the District to determine whether an application is complete or to grant or deny the Application for a Water Distribution System permit for the well to which you refer shall be subject to an appeal in accord with Rule 70. At this time, however, no such determination has been made.

You also request that the \$250 appeal fee be waived. Given that this is not a valid appeal, this question is moot, and the \$250 check is hereby returned (enclosed).

Please contact me at darby@mpwmd.net or 831/658-5650 if you have any questions.

Sincerely,



Darby Fuerst
General Manager

Enclosure

Cc: Henrietta Stern, MPWMD Project Manager
David Laredo, MPWMD General Counsel

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008487

July 8, 2011

PAY TO THE
ORDER OF

Monterey Peninsula Water Management District

\$250.00

Two hundred fifty & 00/100

DOLLARS

MEMO

Beach appeal paid under protest

Molly R

AUTHORIZED SIGNATURE



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