



# TRANSMITTAL

## Supplement to November 21, 2011 MPWMD Board Packet

TO: MPWMD Board of Directors

DATE: November 18, 2011

RE: Email from General Manager David Stoldt regarding Agenda Item 16 – Consider Appeal of General Manger Determination of “Complete” Application for Flores and Pisenti Water Distribution Systems

WE ARE SENDING YOU:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> DOCUMENTS    | <input type="checkbox"/> AGREEMENT OR CONTRACT |
| <input type="checkbox"/> DOCUMENTS YOU REQUESTED | <input type="checkbox"/> OTHER                 |
| <input type="checkbox"/> COPY OF LETTER          |  |

THE ABOVE ITEMS ARE SUBMITTED:

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| <input type="checkbox"/> At your request                           | <input type="checkbox"/> Please review and comment |
| <input checked="" type="checkbox"/> For your information and files | <input type="checkbox"/> For your action           |
| <input type="checkbox"/> For your approval                         | <input type="checkbox"/> Please sign and return    |
| <input type="checkbox"/> Please telephone me                       |  |

REMARKS: Please see the attached printout of an email from General Manager David Stoldt regarding agenda Item 16, for the November 21, 2011 Regular Board Meeting.

BY: *Arlene M. Tavani*  
Arlene M. Tavani, Executive Assistant

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**Arlene Tavani**

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**From:** Dave Stoldt  
**Sent:** Wednesday, November 16, 2011 2:08 PM  
**To:** Bob Brower (rbrower@chateaujulien.com); Brenda Lewis (Lewis4water@gmail.com); Dave Potter; David Pendergrass (sandcitymyr@aol.com); Judi Lehman (jlehman@redshift.com); kmarkey65@comcast.net; Regina Doyle (reginadoyle@aol.com)  
**Cc:** Arlene Tavani; Henrietta Stern; dave@laredolaw.net  
**Subject:** Additional Information to Help Prepare for Monday's meeting

Directors,

Your Board packet is on its way. However, as I re-read the information regarding the Beech appeal, I realized that we have failed to give you the simplest direction as to what you are considering and what actions you may take. Based on direction I received from District General Counsel in October, it is my understanding that the following issues shall be heard by the Board, on appeal, at the November board meeting:

- Whether the July 20th letter determination of the then-General Manager related to the Flores/Pisenti well applications (Flores Well #1 (APN 103-071-002) and Pisenti Well #2, (APN 103-071-019) properly determined those applications to be complete. The General Manager's determination was made pursuant to Rule 22-A-5, which in relevant part states, "the General Manager shall determine if the submitted Application is complete, pursuant to the Implementation Guidelines...." Rule 22-A-5 provides that this determination on the WDS permit is appealable pursuant to Rule 70. Although the Beeches did not file an appeal on this in particular, the decision to hear this appeal reopens it. ***The Board may decide to approve or deny this determination (approval means the applications are complete; denial means the applications are not complete).***
- Whether the July 26th letter issued by then-General Manager Darby Fuerst, concluding certain intermediate actions were not subject to appeal, can in fact be appealed. The July 26th letter addressed notice and testing protocols. The referral by Director Markey raised the question as to whether intermediate decisions by the General Manager can be reviewed on appeal under Rule 70. ***The Board may decide to approve or deny this determination (approval means the intermediate decisions are not subject to appeal under Rule 70; denial means intermediate decisions are subject to such appeal).***

There is no need to respond to this email and please to not select "reply all" and trigger a Brown Act violation.

You may want to print out and bring this email with you for guidance and we can discuss any additions or changes during the meeting.

Best regards,

David J. Stoldt

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David J. Stoldt  
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