

Submitted by Staff  
at 6/27/12 Board Meeting  
Item 4

RECEIVED

JUN 27 2012

**GRIFFITH & MASUDA**

A PROFESSIONAL LAW CORPORATION

517 East Olive Street  
Turlock, California 95380

(209) 667-5501

Fax (209) 667-8176

[www.calwaterlaw.com](http://www.calwaterlaw.com)

Founded 1920

W. Coburn Cook, 1892-1953  
Lin H. Griffith, retired

Roger K. Masuda  
[rmasuda@calwaterlaw.com](mailto:rmasuda@calwaterlaw.com)

**MPWMD**

Celebrating Our  
92<sup>nd</sup> Anniversary

June 27, 2012

Via FAX and email

**URGENT - FOR TODAY'S BOARD MEETING**

Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
PO Box 85  
Monterey, CA 93942-8500

Re: MPWMD's Proposed Ordinance No. 152 - Invalid Effective Date

Dear Board of Directors:

Your proposed Ordinance No. 152 states, "This Ordinance shall take effect at 12:01 a.m. on July 1, 2012." Elections Code Section 9141(b) provides that except as provided in Section 9141(a) [not applicable here], ordinances shall become effective 30 days from and after the date of final passage. Elections Code Section 9340 pertaining to referendums provides that all computations and officers of the county referred in Sections 9141 to 9147 shall be construed to refer to comparable computations and officers of a local public entity, such as the MPWMD, so don't be confused by the fact that those sections speak in terms of the county board of supervisors and the county. The 30-day requirement is to give voters the opportunity to collect signatures on a referendum petition to repeal the ordinance. Elections Code Section 9144 states:

If a petition protesting the adoption of an ordinance is presented to the board of supervisors [here the MPWMD Board] prior to the effective date of the ordinance, the ordinance shall be suspended and the supervisors [here you] shall reconsider the ordinance. The petition shall be signed by voters of the county [here voters within MPWMD] equal in number to at least 10 percent of the entire vote cast within the county [here within MPWMD] for all candidates for Governor at the last gubernatorial election."

If the requisite number of voters sign the petition and present the petition before the 30 days runs, then this Board must rescind the Ordinance No. 152 or call an election

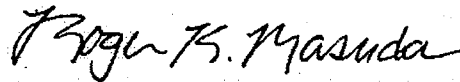
[Section 9145]. If the majority of the voters at the election approve the referendum, the ordinance is repealed.

The District is aware of the 30-day requirement. For example, Section Eight of District Ordinance No. 147 states, "This ordinance shall take effect at 12:01 a.m. on the 30<sup>th</sup> day after it has been enacted on second reading." The same wording must be substituted for the first sentence in Section Nine of proposed Ordinance No.152. Be aware that change would constitute a substantive alteration of the proposed ordinance and would require the District to reinitiate the ordinance adoption process. Failure to do so would in and of itself render the ordinance invalid.

The Board is also considering approving the filing of a CEQA Notice of Exemption for Ordinance No. 152. Since the ordinance cannot be effective until 30 days after its passage, the Notice of Exemption should not be filed with the County until those 30 days have run.

My letter dated June 5, 2012, and letters dated April 13, 2012, and June 11, 2012, by Jeffrey L. Massey of Kronick Moskovitz Tiedemann & Girard are incorporated into this letter by reference.

Very truly yours,



ROGER K. MASUDA

cc: David Stoldt, General Manager