

EXHIBIT 18-B

LAW OFFICES OF  
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RECEIVED

February 14, 2013

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Via Email

Dave Pendergrass, Board Chair  
Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
P.O. Box 85  
Monterey, CA 93942-0085

MPWMD

Re: Comments on Proposed Negative Declaration and Initial Study of  
Proposed Ordinance No. 155

Chair Pendergrass and Members of the Board of Directors:

This Office represents Save Our Carmel River (SOCR) and The Open Monterey Project (TOMP). SOCR and TOMP have taken an active role in water issues over the years. (E.g., *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677.)

SOCR and TOMP object to proposed ordinance number 155, the initial study and proposed negative declaration. Our objections are based on several reasons, many of which echo our objections to previous versions of the ordinance. We incorporate by reference the objections made in our letter dated November 13, 2012. We present here some of the objections to the current ordinance.

The stated purpose of the proposed ordinance is to allow on-site paper water credits to be extended another 10 years, and to use the credits "in connection with a Redevelopment Project" (Ordinance, Section Two: Purpose). The "stated purpose" is materially misleading. The problem is that there can be no future redevelopment projects. Thus, the ordinance does not carry out the stated purpose.

On January 25, 2013, MPWMD staff Stephanie Pintar stated in an email the intent of the ordinance as follows:

The amendment of the definition of Redevelopment Project to accommodate an extension of Water Use Credits at Redevelopment Project Sites identified prior to ABx1 26 is consistent with the original intent of Ordinance No. 121, which was to facilitate Redevelopment Projects without going through the process of transferring Water Use Credits to a Jurisdiction.

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(Underlining added for emphasis.)

The MPWMD claim is that the proposed ordinance "is consistent with the original intent . . . to facilitate Redevelopment Projects." That claim is not supported in the law or facts.

Last year, redevelopment agencies were dissolved. There is no more redevelopment agency law in California. The successor agencies to the former redevelopment agencies cannot make new contracts for new redevelopment projects. Water use credits in former redevelopment areas are no different from any other water use credits. The ordinance would give those former Redevelopment Agency sites special treatment over identical projects that happen to be located on other sites that were not on the former property. That is favoritism and disparate treatment of property without valid or constitutional reason.

The proposed actions of MPWMD would be bad public policy. The initial study fails to present a rationale for the proposed change in MPWMD rules, and it fails to adequately describe the impacts of the project.

The cumulative impacts of the proposed ordinance were not adequately analyzed in the initial study. The ordinance would allow expired Water Use Credits to be revived at a date uncertain in the future, up to twenty years from now. The cumulative impacts of future uses should be evaluated in the initial study.

The proposed new language would allow new projects that are not redevelopment projects to use Water Use Credits. There can be no redevelopment purpose for the new projects, because there are no more redevelopment projects. The new projects could be residential, commercial, industrial, or anything else.

The initial study incorrectly claims that "Projects that use a Water Use Credit to offset the project's water capacity are first reviewed by the land use Jurisdiction. These projects are subject to CEQA review by the Jurisdiction, including consideration of the availability of sufficient water resources to supply the project." That claim simply is not true. Future use of the water credits could be approved through a ministerial process. No future CEQA analysis would be required. All that would be required is for the project to be located on the site that was designated as a Redevelopment Project site under former law. The future projects could be exempt from CEQA, and therefore not subject to CEQA review. The projects also could be subject to CEQA, but the existence of the paper water use credit foreseeably could be considered to be the water supply, without any consideration of the actual wet water resources available.

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The initial study claims as follows:

The prior water uses that make up the pool of Water Use Credit affected by this Project (i.e., Water Use Credit at Redevelopment Project Sites established before February 1, 2012) were active uses prior to State Water Resource Control Board (SWRCB) Order WR 95-10. The historic use or capacity for use was analyzed in the MPWMD Water Allocation Program Environmental Impact Report (EIR) adopted in 1990 and in the Mitigated Negative Declaration (December 18, 1990) . . .

There is inadequate evidence that "The prior water uses that make up the pool of Water Use Credit affected by this Project . . . were active uses prior to" 1995. There is inadequate evidence that Water Use Credits existing as of February 1, 2012 were based on active water use prior to 1990 (the two CEQA documents). There is no listing provided in the initial study. This is known and quantifiable information, because Water Use Credits that existed as of February 1, 2012 are documented by MPWMD.

Redevelopment areas within the MPWMD include the following:

- All of Sand City (over 350 acres, including large shopping centers).
- All of Monterey's downtown extending from City Hall on the west to El Estero Lake on the east, the Monterey Bay on the north and south of Fremont Street to the south, and including the conference center and Custom House area which contain large hotels with hundreds of rooms.
- All of Cannery Row.
- Vast swaths of Seaside, from General Jim Moore Boulevard to the east to Highway One to the west, and to LaSalle Street to the north and Hilby Avenue to the south. This area includes most of the downtown commercial areas along Fremont and Del Monte Boulevards and Broadway Avenue, as well as many of Seaside's core residential neighborhoods both east and west of Fremont Boulevard.
- The City of Seaside-Former Fort Ord Redevelopment Project Area, which is all former Fort Ord lands (approximately 3,937 acres) within the jurisdiction of the City of Seaside.
- Many acres of land in Del Rey Oaks.

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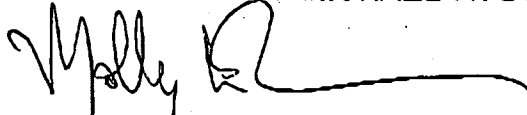
In total, there are thousands and thousands of acres and hundreds of businesses and residences that would qualify for this new expanded definition, and that would not qualify under the existing definition.

The initial study makes no attempt to describe the expansion that the new language would do, either in geographic terms, water demand terms, or any other terms. The initial study failed to investigate to what extent jurisdictions use the term "redevelopment project," if at all.

The MPWMD's proposed selective treatment of specific properties is poor planning and poor policy, and the CEQA review is inadequate. We urge the board to comply with CEQA and to vote against the ordinance and the proposed environmental documentation.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP



Molly Erickson

Exhibit A: MPWMD list of "Water Use Credits on Redevelopment Area Properties within MPWMD (January 16, 2013)"

### Water Use Credits on Redevelopment Area Properties Within MPWMD (January 16, 2013)

Monterey	2 Portola Plaza	Retrofit urinals	001-567-019	0.480	03/25/1997	03/25/2007
Monterey	2 Portola Plaza	Installation of Ozone laundry system	001-567-017	2.478	12/28/2009	12/28/2014
Monterey	886 Cannery Row	Desalination project	001-017-002	2.408	03/01/1996	03/01/2016
Monterey	270 & 284 Cannery Row	Abandoned auto sales/service & warehouse	001-031-004	2.260	03/18/2002	03/18/2017
Monterey	271 Figueroa	5325 sq ft grp 1	001-702-013	0.3720	04/06/2004	04/06/2014
Monterey	459-471 Alvarado Street	Demo 23202 gr 1, 3,157 sf grp 2 & restaurant (81)	001-574-024 & 025	3.7400	02/07/2007	02/07/2017
Monterey	735 Pacific	Abandonment of Skilled Nursing	001-591-007	5.3380	04/27/2007	04/27/2012
Monterey	300 Bonafacio	Demo auto sales	001-695-011	0.1590	08/12/2003	08/12/2013
Monterey	256 Figeros	Demo DJ Café	001-702-013	0.3840	10/15/2002	10/15/2014
Monterey	595 Munras Avenue	Demo public toilet, 2500 Gr 2, & gas	001-691-001	1.2890	09/08/2008	09/08/2013
Monterey	601 E. Franklin Street	Demo former lumber business/auto	001-703-003	0.3650	09/16/2003	09/16/2013
Monterey	1278 Munras Avenue	Demo Swim Pool	001-661-039	0.1400	11/23/2011	11/23/2016
Monterey	619/625 Van Buren	Demo office/storage buildings	001-512-003 &	0.152	08/20/2004	08/20/2014
Monterey	613 Van Buren	Demo 1200 sf office building	001-512-018	0.084	08/20/2004	08/20/2014
Monterey	731 Munras	Abandonment of salon	001-682-009	0.342	03/04/1999	03/04/2009
Monterey	787 Foam	Remaining from permit	001-072-002	0.053	09/09/2009	09/09/2014
Monterey	401 Camino El Estero	Zero Water Urinals	001-994-001	0.319	08/27/2007	08/27/2012
Monterey	Wharf 1 public restroom	Zero Water Urinals		0.683	08/27/2007	08/27/2012
Monterey	570 Pacific (Colton Hall)	Zero Water Urinals	001-524-002	0.115	08/27/2007	08/27/2012
Monterey	Police Department	Zero Water Urinals	001-512-008	0.159	08/27/2007	08/27/2012
Monterey	345 Washington (Sports	Zero Water Urinals	001-706-004 &	2.154	08/27/2007	08/27/2012
Sand City	691 Ortiz aka 1729 Holly	2,220 sf grp 1	011-197-006	0.155	08/16/2006	08/10/2016
Sand City	840 Fir Avenue	Abandoned freezer operation	011-123-016 & 022	9.727	09/20/2002	09/20/2012
Sand City	860 Tioga	Demo SFD	011-122-011	0.087	08/01/2005	08/01/2015
Seaside	1667 Del Monte Blvd	Demo 786 sq ft	011-551-017	0.055	06/01/2002	06/01/2012
Seaside	1645 Del Monte Blvd	1227 sq ft	011-551-004	0.086	06/19/2002	06/19/2012
Seaside	1601 Fremont Blvd	Demo gas station	011-544-003	0.419	06/24/2004	06/24/2014
Seaside	1445 Fremont Blvd.	77 seat fast food	011-324-003	2.022	02/02/2005	02/02/2015
Seaside	845 Elm Ave	Demo SFD	011-294-007	0.087	05/02/2003	05/02/2013
Seaside	800 Palm Ave	Demo 2 units	011-294-001	0.174	04/28/2003	04/28/2013
Seaside	810 Palm Ave	Demo SFD	011-294-002	0.087	04/28/2003	04/28/2013
Seaside	826 Palm Ave	Demo 9660 warehouse	011-294-003	0.677	11/26/2002	11/26/2012
Seaside	835 Elm Ave	Demo 3 units	011-294-008	0.261	04/28/2003	04/28/2013
Seaside	815 Elm Ave	Demo 2 units	011-294-009	0.174	04/28/2003	04/28/2013
Seaside	1500 Calaveras	Demo SFD	011-294-010	0.087	04/28/2003	04/28/2013
Seaside	1501 Fremont	Demo El Pergino Taqueria (1440 sf)	011-294-011	0.288	03/11/2003	03/11/2013
Seaside	1509 Fremont	Demo 625 used car sales lot	011-294-014	0.044	03/11/2003	03/11/2013
Seaside	1551-1557 Santa Barbara	Demo 25 seat restaurant and 1200 retail	011-293-004	0.584	08/14/2002	08/14/2012
Seaside	1667 Del Monte Blvd	Demo MFD & commercial use	011-551-007	0.142	06/01/2002	06/01/2012

Total 38.630

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