

LAW OFFICES OF  
**MICHAEL W. STAMP**

Michael W. Stamp  
Molly Erickson  
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479 Pacific Street, Suite One  
Monterey, California 93940

Submitted at  
12/9/13 Board Meeting  
Item 12

Telephone (831) 373-1214  
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December 9, 2013

RECEIVED

David Pendergrass, Board Chair  
Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93942-0085

DEC 09 2013

MPWMD

Subject: Dec. 9, 2013, Agenda Item 12 – Proposed ordinance No. 158

Dear Chair Pendergrass and Members of the Board of Directors:

These are comments on Item 12 on the December 9 agenda on behalf of Save Our Carmel River (SOCR), Patricia Bernardi, and The Open Monterey Project. We urge the Board to reject Draft Ordinance No. 158. We previously submitted letters on this topic on November 6 for the Water Demand Committee review and on November 18 for the first reading of the ordinance. We have not received a response.

Background of Ordinance; New Water Credit Transfer Projects Revealed

After the Board acted in October 2013, and well before the first reading of the ordinance, I called Water Demand Manager Stephanie Pintar, who runs the water credit transfer program. I asked Ms. Pintar what was the reason behind the proposed ordinance, and what applications there had been for water credit transfers. She responded that there were no applications or projects. She said that the change was just to make things easier for potential applicants. She said there had not been any applications for a water credit transfer since the Court of Appeal opinion in *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677 (Monterey Superior Court case no. M72061).

On November 20, I requested a copy of the DVD of the November 18 Board meeting. I worked with Ms. Tavani, aide to the general manager. On December 3, 2013, the District mailed the DVD to us. On December 4, 2013, we received the DVD. We promptly reviewed the DVD of the hearing on the proposed ordinance. We were very surprised to hear Mr. Stoldt state that the proposed change in the District rules was initiated by a property owner who wants to do a water credit transfer, and that the proposed rule change was brought to the District by a District director. None of this information had been previously revealed by the District. It had been withheld from the public, and possibly from some directors and from some staff (including, possibly, Ms. Pintar).

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On December 5, 2013, this Office promptly made a public records request to the District seeking records that show which applicant initiated the change in rules, what the applicant's project is, the director who proposed the change, and other records with regard to the transfer, and other information that gave rise to the proposed change in rules. We asked that the District delay its December 9 hearing until the District produced the responsive records and we have had the opportunity to review the records. Late this morning, Monday, December 9, 2013, when this letter is being finalized, we received a letter from Ms. Tavani stating that the request had been forwarded to the Board. The District has not responded to our December 5 request for records.

All of this information and these documents are part of the administrative record in this matter. The records and information should be disclosed to the public and available to be reviewed for a reasonable amount of time prior to any final action by the Board on the ordinance. The District is piecemealing the environmental review of the project by not disclosing the underlying projects that have given rise to the proposed change in water credit transfer rules.

#### Role of a Responsible Agency

The representations of the District to date are inaccurate as to the role of a responsible agency and the abilities of the District to act in the future if the ordinance is adopted. Despite their claims, it is not simple for a lead agency to assert lead agency status. Specific conditions must exist. The CEQA statutes and rules as to responsible agency roles and limitations have not been adequately or accurately explained to the Board, or considered by the District in its CEQA analysis.

Once the District consents to the cities/county/airport district being lead agencies for water credit transfers, the District cannot undo that consent. That would be a permanent decision. Once the District has given another agency the right to be lead agency, as proposed by this ordinance, CEQA does not give the District much opportunity to change that. If another agency prepared inadequate environmental review, essentially the only option the District would have is to sue the lead agency. There would not be an opportunity to assert lead agency status merely because the District did not like the environmental review.

#### Conflict of Interest

The legal counsel to the Water Management District, Mr. Laredo, has advised the District since the 1980s. He has a trove of personal knowledge about the issues, the history, the District rules, the past interpretations, the terminology, the potential impacts, and the important experiences of the early 2000s and the Save Our Carmel

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River lawsuit in 2004 through 2006. No other legal counsel has that information, not even close.

More recently, and for some years now, Mr. Laredo also has served as city attorney for Pacific Grove. Mr. Laredo's associate Heidi Quinn is assistant city attorney, and his associate Alex Lorca is deputy city attorney. The District's only other legal counsel with expertise in water credits is Fran Farina, who also is an associate in Mr. Laredo's law firm, according to his website, laredolaw.net.

If a water credit transfer involving Pacific Grove came to the District, Mr. Laredo and his firm would have a conflict of interest, and would be conflicted out of representing either Pacific Grove or the District. In other words, the District would not be able to rely on Mr. Laredo or any of the attorneys in his office for any aspect of the water credit transfer – not for commenting on any CEQA action taken by Pacific Grove, not for reviewing any environmental determination proposed or adopted by Pacific Grove, not for advising District General Manager David Stoldt or any District staff, and not for advising the Board on anything to do with the water credit transfer.

On November 18, 2013, I called Mr. Laredo and asked him if he felt he had any conflict of interest with regard to the ordinance. He immediately said no, and then asked me what I meant. I said that he held two positions, as District counsel and as city attorney for the City of Pacific Grove. Mr. Laredo said no, he did not see any conflict. At the Board meeting on the evening of November 18, Mr. Laredo advised the Board that he had no conflict.

We have heard from a reliable source that the property owner who wants a change in the transfer rules is a Pacific Grove property owner, and the project in question is in Pacific Grove.

#### The Cities, County, and Airport District Lack Expertise in Water Credit Transfers

As one example, the Airport District does not have expertise to evaluate new projects or water credits. The Airport District does not have a planner on staff, or a board member with expertise in water resources and water regulations. As another example, Sand City has a very small city staff, and does not have any staff with the expertise that is individually held by several District staff members.

Unlike the Water District, which has experienced staff knowledgeable in water credits, the water credit program, and CEQA (e.g., Henrietta Stern, project manager), and has numerous Board members with expertise, including Director Markey, an attorney with years of planning and CEQA experience and more than nine years experience on the Water Board; and Director Lehman, who was first elected to the Board in 2001 when she ousted an incumbent who supported water credit transfers.

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Ms. Lehman ran on a campaign platform expressing serious concern about water credit transfers and the impacts on the environment. Prior to her 12 years on the Water Board, Ms. Lehman was for many years a historic preservation commissioner for the City of Monterey, and an elected director of the Monterey Peninsula Regional Park District. In those capacities, she had significant experience dealing with CEQA and planning issues.

Although the larger cities and County have planners on staff, none of their staff has the expertise in water issues and District programs and rules that the District staff has.

#### Res Judicata

Under the *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677, the water district is bound by res judicata. However, if this ordinance passes, the eight individual agencies who would become lead agency – cities, county and airport district – are not necessarily bound by res judicata, although a strong argument to the contrary exists, and can be expected to attempt to avoid the Court of Appeal's holding in *Save Our Carmel River*.

The cities/county/airport district foreseeably can be expected to exercise their discretion in ways that result in a more limited CEQA analysis of a water credit transfer than the Water District's analysis, because the respected geographical boundaries of the cities/county/airport district are much more limited than the District. The information held by the cities/county/airport district also is much more limited than the information held by the District. For example, if the Water District were to perform a cumulative impacts analysis of a water credit transfer, the Water District immediately knows what other water transfer applications exist, because the Water District runs the program, and the District also knows what other projects exist that have the potential to impact the resource (the water supply).

If the proposed ordinance were to go into effect, this would change dramatically. Not only would the cities/County/ airport district not know what other water credit applications exist, but the cities/county/ airport district also would not know about all other projects that have the potential impact the resource, and that must be considered in a cumulative impacts analysis. There has been inadequate attention to how a city, or the airport district, would know what other possible water credits transfer projects exist throughout the District. Only the District has that perspective and that information. Only the District is acutely aware of the complexities of the Peninsula's water supply problems, the legal and environmental issues surrounding the Carmel River and the adjudicated Seaside Basin, Order 95-10, the Cease and Desist order. Only the District is the only local agency with a mandate to protect the water supply. The District implemented its water credit transfer rules

### Cumulative Impacts

There is a clear intent under CEQA that projects be considered cumulatively with other pending and possible future projects to afford the fullest possible protection to the environment. (See *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 524-525.) Public Resources Code section 21083, subdivision (b)(2) provides that “a project may have a ‘significant effect on the environment’” if “[t]he possible effects of a project are individually limited but cumulatively considerable.” “[C]umulatively considerable’ means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (*Ibid.*) The CEQA Guidelines provide that “[c]umulatively impacts’ refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (CEQA Guidelines, § 15355.) The Guidelines define “[t]he cumulative impact from several projects” as “the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.” (*Id.*, subd. (b).)

The proposed changes to District rules would allow cumulative impacts to potentially remain unconsidered because each individual city/county/airport district – unlike the Water District – would lack the knowledge about other similar water credit transfer projects in other geographical areas outside their boundaries, and also lack the expertise to adequately understand and analyze the impacts. Additionally, the cumulative impacts analysis likely would and should involve the impacts of projects of other kinds, as well, not just other water credit transfers. Again, only the District has the regional perspective and the insider knowledge of these issues due to its unique role, created by the California Legislature.

### Proposed Ordinance Would Violate CEQA

We again emphasize that no CEQA exemption applies to this ordinance. The ordinance is far more than an organizational change. The ordinance would have the District giving up its lead agency position with regard to water use credit transfers, even though water use credits and water use credit transfers are solely a creature of the District rules and regulations. This action is inconsistent with CEQA, and would have far-reaching impacts on future CEQA analyses of water credit transfers.

SOCR has challenged the District’s use of CEQA exemptions several times in the past, including the published *SOCR v. MPWMD* case. This also includes the 1998 lawsuit (*SOCR v. MPWMD*, Monterey County Superior Court Case No. M 40865) that challenged the District’s use of CEQA exemptions for the District’s adoption of ordinances 90 and 91. The District claimed exemptions under section 15301, Existing

Facilities, and section 15302, Replacement or Reconstruction. Judge Richard M. Silver ruled that the District's use of the exemptions for those ordinances was not legal. In each challenge, SOCR has prevailed.

Water use credit transfers are the only way for new projects to "create" water. The cities, County and airport district are essentially out of water. The amounts remaining, as shown on the District's monthly allocation report, are largely allocated. (For example, although the City of Monterey has 6.824 AF remaining, that amount has been fully allocated. [See attached documentation.] The City of Pacific Grove is in a similar situation. As another example, the County has fully allocated its water, and has a lengthy waiting list of applicants who have approved projects and are waiting for water to start construction. The amount shown in the County's allocation [12.545 AF] is also already fully allocated to individual projects. As explained to me by Ms. Pintar, the reason that there is an amount showing is because the projects have not yet come in to pull their water permit from the District.) The State Water Resources Control Board Cease and Desist Order has essentially closed out all opportunities for new water meters and for intensification of existing water use. The planned desalination project is many years away from producing water, if it ever comes to be.

The problem is that water use credit transfers transfer water that is not being used at the donor site – in other words, paper water. As a result, when the paper water use from the donor site is transferred to the recipient site, the recipient site then starts using more wet water. As a result, the net water use – at both sites combined – increases.

The increased net water use is exacerbated because, water use credits are based on the District's commercial water use factors, not on actual use. According to the District's own documentation (see attached, from tonight's Board packet), the factors tend to overstate the theoretical water use. When there is a transfer, the amount transferred is based on the overstated amount.

This information was summarized in the studies and other records in the certified administrative record for the *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677 (Monterey Superior Court case no. M72061). We have requested that the aforementioned certified administrative record be included in the administrative record for this Ordinance 158, because it is closely related to the same issue (water credit transfers) and includes the important materials that are relevant to any changes to the proposed water credit transfer ordinance. We have offered to provide a complete copy if the District wants us to provide it to them, but in the interest of saving paper we have not lodged it with this letter tonight. The State Water Resources Control Board Cease and Desist Order (CDO) also is included in the administrative record for this proposed ordinance. The CDO restrictions are one of the factors creating pressure on the District to relax the District's water credit transfer

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standards, as this ordinance proposes. As one example, the CDO prohibits the placement of new water meters by Cal Am Water Company. With no new water meters possible, there is increased pressure on existing metered sites. Water credits can be transferred only to existing commercial sites with meters. And because the cities and County are out of water, water credit transfers have become a renewed focus for growth.

Thank you for considering these comments.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

A handwritten signature in cursive script, appearing to read 'Molly Erickson', followed by a long horizontal line extending to the right.

Michael W. Stamp  
Molly Erickson

Enclosures:

1. Information on Airport District
2. Information on Sand City
3. Our December 5, 2013 letter to the District (emailed and faxed)
4. Our December 6, 2013 letter to the District (faxed at approx. 5:48 PM)
5. Information about Mr. Laredo and his firm; Mr. Laredo's FPPC Form 700
6. Partial transcript of MPWMD Board hearing of November 18, 2013
7. Information on Director Lehman
8. Information on water allocations from District and city records





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## ABOUT MONTEREY REGIONAL AIRPORT

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### The District

The Monterey Peninsula Airport District was created in 1941 and is not incorporated into the city or the county, nor is it a public utility. Since its creation the Airport has evolved to continually meet the needs of its users. In doing this, the airport, has seen such dignitaries as Pope John Paul II, John F. Kennedy, and many other stars and celebrities. It has distinguished itself as an outstanding contributor to the local community and the National Transportation Plan. Monterey Airport remains dedicated to providing a solid platform for its local community and the nation as a whole.

The Airport District includes portions of Monterey, Pacific Grove, Del Monte Forest, Pebble Beach, Carmel-by-the-Sea, greater Carmel, Del Rey Oaks, Seaside, Sand City, the Monterey-Salinas Highway to Laureles Grade, and the west end of Carmel Valley.

### The Airport

Monterey Airport (MRY) a 498 acre is a "Non-Hub" airport. Five airlines serve Monterey. Alaska Airlines, American, Allegiant, United Airlines and US Airways.

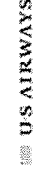
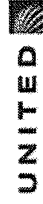
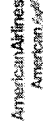
MRY has two parallel runways, a Federal Air Traffic Control Tower and a precision instrument approach to runway 28L and 10R. The Monterey Airport has based aircraft, 211 hangars and tie-downs, and 55 business tenants. The primary instrument runway (IFR) is 7,616 in length. The smaller general aviation runway is 3,500 in length.

There is always something new happening here at the Monterey Regional Airport, and now you can be the first to hear about it.



### TERMINAL HOURS

Opens **4:00 AM** until arrival of last flight, **7 days a week, 365 days a year.**



## MONTEREY REGIONAL AIRPORT

200 Fred Kane Drive #200  
Monterey, CA 93940  
(831) 648-7000

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# AIRPORT ADMINISTRATION

General Manager	Thomas E. Greer, AAE
Senior Deputy General Manager	Charles R. Hayes
Deputy General Manager, Planning & Development	Mark Bautista
Police Chief	Fred Hardee
Accounting Manager / Controller	Jerry Merritt
Human Resources/Administration Manager	Tonja Posey
Operations Manager	Ken Griggs
Public/Media Relations	Jennifer Hickerson



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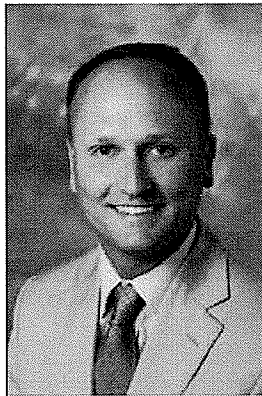
**CLICK HERE FOR BOARD MEETING AGENDAS.**

## **MONTEREY PENINSULA AIRPORT DISTRICT BOARD OF DIRECTORS**

The District is governed by five publicly elected Board of Directors.

The current Board members are:

### **MATTHEW NELSON - CHAIRMAN**



As a retired major airline pilot, Nelson brings with him a wealth of experience in the dynamic environment of aviation. Nelson is a former Assistant Chief Pilot, check airman, and training captain for a regional airline, with experience as a liaison between management and the pilot group. He has worked with the FAA on safety-related issues, and as a member of the Critical Incident Response Team (CIRT), a volunteer group dispatched to assist and aid crew members.

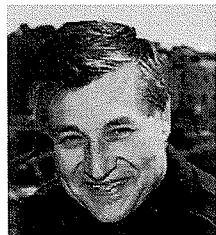
He holds a BA degree in Political Science from the University of California at Santa Barbara and an Air Transport Pilot's license. He graduated from Robert Louis Stevenson High School and has lived in Monterey County for over 24 years. Bilingual in Spanish, Nelson lives in Pacific Grove with his wife and their two sons.

Nelson's two major initiatives include greater convenience for the traveler with a smaller carbon footprint for the environment. He plans to achieve this by working with the FAA in creating a more fuel-efficient and effective landing approach system used by pilots during inclement weather and working with business leaders of Monterey County by responsibly increasing destination choices.

Outside of aviation, Nelson is a volunteer diver at the Monterey Bay Aquarium, Cub Scout leader, and PTA committee member.

Matt Nelson was elected to the Monterey Peninsula Airport District in 2010. Matt can be reached at: 831-915-0307  
pacificrovenelson@sbcglobal.net

### **CARL MILLER - VICE CHAIRMAN**



Carl Miller retired in October 2006 as the Chief of Police in Pacific Grove where he worked for thirty years rising through the ranks to Police Chief. He has a BA degree from the Golden Gate University in Police Management and is a graduate of the FBI National Academy and the California P.O.S.T. Police Command College. Carl has lived and worked on the Monterey Peninsula for 45 years and lives in Monterey with his wife (Monterey native) Diana Ferrante Miller and their sons Alex and Marc. Carl teaches police procedures at several police academies in California. In addition to the Monterey Peninsula Airport District Board, Carl serves as a board member for Interim of Monterey County, which operates 18 facilities that provides supportive services and quality housing for people with mental illness. He also serves on the board of

Monterey Peninsula Impact for Youth, which provides anti drug and alcohol programs for children in Pacific Grove and Carmel schools. Carl is also the President of Monterey County Special Districts Association (2012 & 2013). Carl Miller was elected to the Monterey Peninsula Airport Board of Directors in 2006.

648-7000 extension 402

## MARY ANN LEFFEL



Mary Ann Leffel retired from a 45 year career in the banking industry, working for large and small banks all over the US, as she moved often with her husband while he was in the US Army. She is now serving as the Director of Business and Industry Relations for the California Homeland Security Consortium. Leffel is active as President of the Monterey County Business Council Board, co founder of the Competitive Cluster Initiative, a public private partnership for economic development in Monterey County, Chair of the Government Relations/Business Development Committee for Monterey County's Overall Economic Development Commission and as Chair of the county's Workforce Investment Board Oversight Committee. MaryAnn is also a current Director of the Monterey Peninsula Airport District. She currently serves on the boards of Access Monterey Peninsula, Interim, Inc, Central Coast Community Health Care

Inc., Monterey County Agricultural Education and Carmel Heritage Foundation. She is also serving on the Business Advisory Council for California Community Colleges, the advisory boards of the Naval Postgraduate School Foundation, Leadership Monterey Peninsula, Pebble Beach Food and Wine and The Tomato Fest. She is past Chair of the Monterey Peninsula Chamber of Commerce, Natividad Medical Center Board of Trustees, Leadership Monterey Peninsula, and Volunteer Center of Monterey County. She is involved with numerous other civic organizations through membership and participation. Living in Monterey County since 1982, with her husband, Hal, they have two grown children and three granddaughters.

In 2001, Leffel was awarded the California Chamber of Commerce Small Business Advocate of The Year. In 2004, she was awarded the American Heart Association's Heart Of A Woman Award.

## WILLIAM "BILL" SABO



Bill Sabo is an aviation safety and management consultant. He is also an active commercial pilot.

As a board member of the Monterey County Transportation Agency and Chairman of the Monterey County Airport Land Use Commission he maintains an active involvement in transportation matters affecting Monterey County and the Central Coast.

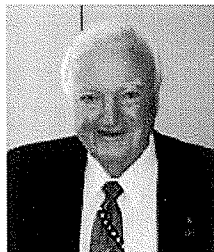
Bill is a decorated Viet Nam era combat pilot and a former pilot with Eastern Airlines. He was previously a Senior Vice President of Air Safety International.

Bill's priorities for the District include an emphasis on continuously improving airline flight options and airfares for Central Coast visitors and residents.

Bill joined the Monterey Peninsula Airport District Board in 2007. His current term extends through 2016.

831-402-7394 - wsabo@att.net - www.voteforsabo.com/

## RICHARD SEARLE



Dick Searle has been on the Airport Board for over 30 years.

After WWII, I settled on the Monterey Peninsula. The Airport was in its' infancy and as a flyer I could envision its value to the Monterey Peninsula.

As President of the Monterey Airman's Association, I was instrumental in closing runway 6/24 for safety and noise abatement in fact I was the first pilot to land on 10R and 28L.



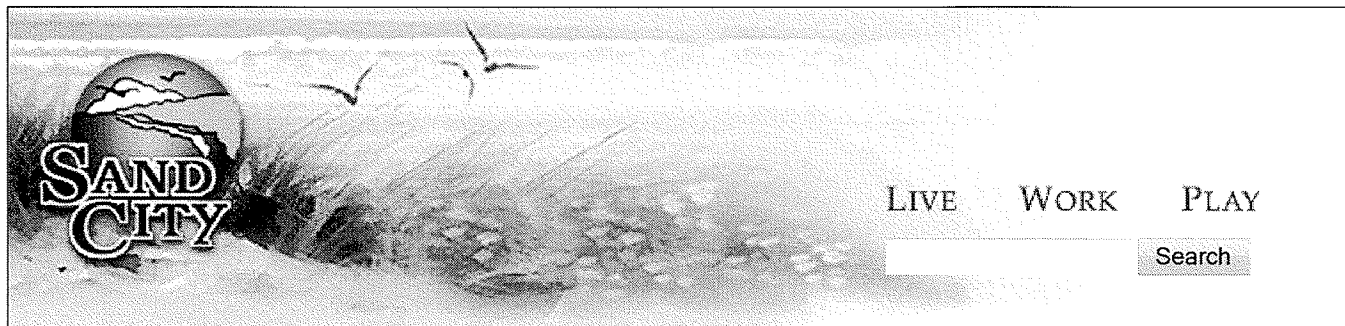
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## Who's who at City Hall

### Steve Matarazzo

City Administrator/Community Development Director

Phone: (831) 394-6700 x12

Email: [steve@sandcity.org](mailto:steve@sandcity.org)

As the City Administrator, Steve oversees all City employees and ensures efficient personnel management. He serves as the City Treasurer/Finance Officer and Executive Director of the Redevelopment Agency and represents the City with public agencies, private organizations, boards, commissions, city residents, businesses and property owners.

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### Linda Scholink

Administrative Services Director City Clerk

Phone: (831) 394-3054 x20

Email: [linda@sandcity.org](mailto:linda@sandcity.org)

While providing administrative services, assistance and coordination for other city departments and to department heads, Linda serves as Director of Administration with primary responsibilities to supervise the administrative, personnel and financial systems of the City. She is responsible for selection, orientation, training and supervision of City personnel and implements new policies and procedures among clerical personnel. She ensures that personnel, financial and budgetary records, agreements and contracts are maintained in compliance with governmental standards and internal policies and procedures for all employees and oversees financial record keeping systems.

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### Charles Pooler

Associate Planner

Phone: (831) 394-6700 x16

Email: [chuck@sandcity.org](mailto:chuck@sandcity.org)

Charles performs city planning activities as directed by city ordinances, planning policies and the Community Development Director. He provides information to the public by citing and interpreting ordinances and policies and analyzes and summarizes applications, documents and other matters for action by city staff or advisory bodies. This position also includes collecting and analyzing data for special studies and comprehensive projects related to planning.

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## Connie Horca

**Deputy City Clerk/Administrative Assistant**

**Phone:** (831) 394-3054 x10

**Email:** [connie@sandcity.org](mailto:connie@sandcity.org)

Connie provides clerical and administrative support to Department Heads, the City Administrator and Council Members as well as serving as the primary contact at City Hall. She regularly prepares agendas, packets and related information for City Council/Redevelopment Agency meetings as well as attends the meetings and prepares minutes. She maintains City/Agency files, lists, records and schedules while overseeing meeting room usage and office equipment.

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## Devon Lazzarino

**Accounting Technician/Administrative Assistant**

**Phone:** (831) 394-3054 x19

**Email:** [devon@sandcity.org](mailto:devon@sandcity.org)

Serving as assistant to the Director of Administrative Services, Devon is responsible for general office duties with a primary focus on financial matters including payroll and accounts payable/receivable. She maintains business licenses, prepares billings and assists in preparing financial reports and budgets. Additionally, she is responsible for tracking City assets and inventory including City property and City equipment.

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## Contract Staff

**Jim Heisinger**

**City Attorney/Legal Counsel**

**Phone:** (831) 394-3054

**Email:** [hbm@carmellaw.com](mailto:hbm@carmellaw.com)

Jim provides general legal services common to the routine operations of a City and Redevelopment Agency. This includes attendance at all regular, special and study sessions of the City Council and Redevelopment Agency, assistance with preparation of agendas and phone consultation as needed. He also manages and supervises outside special legal counsel.

**Leon Gomez**

**Creegan & D'Angelo**

**Interim Public Works/City Engineer**

**Phone:** (831) 373-1333

**Email:** [lgomez@cdengineers.com](mailto:lgomez@cdengineers.com)

Leon's primary responsibility is to design, implement, and manage civil improvement projects outlined in the City's Capital Improvement Plan including street and utility improvements. He reviews grading, drainage and civil engineering plans as part of a development project's plan check review prior to issuance of building permits. Additionally, he oversees the cost of and completion of City projects.



## Public Works Staff

**Harvey Drone**  
**Public Works Foreman**  
**Phone:** (831) 394-1386  
**Email:** [publicworks@sandcity.org](mailto:publicworks@sandcity.org)

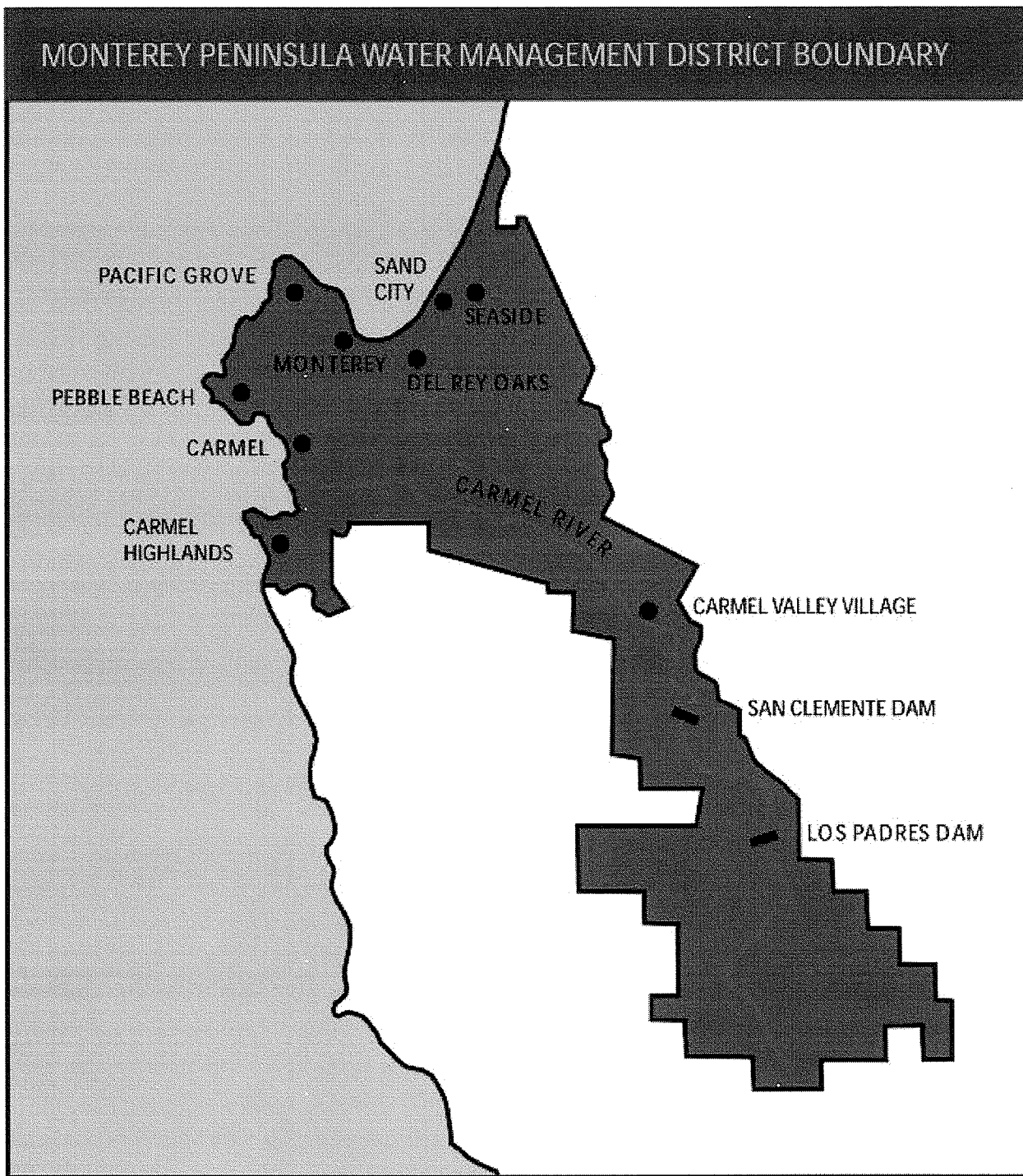
Harvey supervises work crew engaged in street maintenance, street striping, and storm drain maintenance, in addition to construction, maintenance and repair of city facilities. Responsibilities include maintenance of City landscaping, parks, street trees, and much more while providing "hands-on" support for all tasks. Harvey orders equipment and supplies, maintains inventories, and produces monthly public works department reports as required as well as responds to emergency calls.

**Fred Menezes III**  
**Maintenance Worker II**  
**Phone:** (831) 394-1386

Fred is responsible for organizing equipment and supplies purchased by the City and maintaining the cleanliness and appearance of City Hall and its surroundings. He assists with street maintenance repairs including replacing street signs, street striping and curb painting and also performs limited construction work. Fred serves as assistant to the Public Works Foreman.

**Richard Garza**  
**Maintenance Worker I**  
**Phone:** (831) 394-1386

Richard is responsible for janitorial services, street and building maintenance, gardening, and parks maintenance. He maintains the cleanliness and appearance of City Hall and its surroundings while assisting the Public Works Foreman as needed.



[MPWMD Home Page](#) | [What's MPWMD ?](#) | [Map of MPWMD](#)

[Contact MPWMD](#) with questions about this web site.



LAW OFFICES OF  
**MICHAEL W. STAMP**

Michael W. Stamp  
Molly Erickson  
Olga Mikheeva  
Jennifer McNary

479 Pacific Street, Suite One  
Monterey, California 93940

Telephone (831) 373-1214  
Facsimile (831) 373-0242

December 5, 2013

David Stoldt  
General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
P.O. Box 85  
Monterey, CA 93942-0085

Subject: California Public Records Act request

Dear Mr. Stoldt:

This Office represents Save Our Carmel River, Patricia Bernardi, and The Open Monterey Project. I was unable to attend the November 18 evening hearing on the first reading of the proposed ordinance number 158. On November 20, less than two days after the November 18 Board meeting, I requested a copy of the DVD of the hearing. The District mailed the DVD on December 3, and the DVD arrived yesterday afternoon, December 4. I reviewed it promptly.

In the video of the November 18 hearing on the proposed ordinance, you reference the desire of property owners to eliminate a potential obstacle to their construction projects. You stated that one property "owner in particular initiated this," the changes to the water credit transfer rules, "through one of the directors" of the Water District who "brought it to our attention." The proposed ordinance number 158 is the result of that request from the property owner via the Water District director.

This is a public records request on behalf of the Save Our Carmel River, Patricia Bernardi, and The Open Monterey Project to inspect, and possibly copy, the following records. In General, we seek access to the records that have anything to do with the ordinance, the property owner who initiated the change, the director who brought the change request to the District, the request for changes to the rules, the sites and projects for which a transfer is sought, the land use jurisdiction in which the sites are located. Included in the request, we seek the following ten specific categories of records.

1. All records of every kind, including records of communications, that constitute, refer, describe, reference, mention changes to the MPWMD rules on water use credit transfers or CEQA review of transfers..
2. All records of every kind, including records of communications, that constitute, refer, describe, reference, mention any wishes, desires, or

requests of a property owner with regard to water use credit transfers, or a change to the transfer rules, or CEQA review of transfers.

3. All records of every kind, including records of communications, that constitute, refer, describe, reference, mention any wish, desire or request by any land use jurisdiction<sup>1</sup> with regard to water use credit transfers or a change to the transfer rules or CEQA review of transfers.
4. All records of every kind, including records of communications, that constitute, refer, describe, reference, mention the communication by the property owner "who initiated" the changes, as referenced by Mr. Stoldt.
5. All records of every kind, including records of communications, that identify the property owner "who initiated" the change, as referenced by Mr. Stoldt.
6. All records of every kind, including records of communications, that constitute, refer, reference, describe, or mention the project or projects to which the property owner identified above seeks to use, apply, or consider a water credit transfer.
7. All records of every kind, including records of communications, that constitute, refer, reference, describe or mention the land use jurisdiction in which the project or projects (referenced in the preceding category) are located.
8. All records of every kind, including records of communications, with the land use jurisdiction (including elected officials) referenced in the preceding category, regarding water use credits, or water use credit transfers, or District rules, or CEQA review of transfers.
9. All records of every kind, including records of communications, that identify the director who "brought the matter to our attention," as referenced by Mr. Stoldt.
10. All records of every kind, including records of communications, that constitute, refer, describe, reference, mention the communication by the director with regard to water use credit transfers or changes to the transfer rules.

---

<sup>1</sup> The District calls the cities, airport district and County by the general term "the land use jurisdictions."

This records request includes public records held by individual directors on the Board as follows: Byrne, Brower, Pendergrass, Potter.<sup>2</sup> For example, if the director communicated with a property owner about the current Water District rules, or proposed changes to the rules, that record would be responsive to this request and should be produced. If a director communicated with a representative of a land use jurisdiction about proposed changes to the transfer rules, that record should be produced. It is immaterial whether MPWMD staff is or is not included in the communications. Communications between directors would also be responsive records. The individual directors are public officials and their records on this topic are public records.

The records include records held on personal devices or other devices that are not the property of the District. In addition to MPWMD staff, the records request is also directed at District Counsel David Laredo, to the extent that the records are not protected by the attorney-client privilege between Mr. Laredo and the MPWMD. If the records are withheld under any other privilege, please provide a privilege log.

The time frame for these requests is from January 1, 2013 to the present.

The request includes all communications, including notes of meetings, notes of conversations, emails and other electronic records, including those scanned into the electronic project files, residing on staff computers and on the shared drive(s), and in archived form. Our clients request those records in the form held by the agency. For records that are electronic, please copy them onto a CD for us. If the records are kept individually, please copy them as individual emails and not combined, and include email attachments. (See Gov. Code, § 6253.9, subd. (a).)

If records are available on the agency website, or there are records that you think might be eliminated from the agency production, please let me know. If the agency has any questions regarding this request, please contact me. We will be happy to assist the agency in making its response as complete and efficient as possible.

We seek the agency's assistance. I draw the agency's attention to Government Code section 6253.1, which requires a public agency to assist the public in making a focused and effective request by (1) identifying records and information responsive to the request, (2) describing the information technology and physical location of the records, and (3) providing suggestions for overcoming any practical basis for denying access to the records or information sought.

---

<sup>2</sup> These four directors voted in favor of the ordinance at the November 18, 2013 meeting. It is reasonable to assume that one of these directors initiated the rule change, as described by Mr. Stoldt.

David Stoldt, General Manager  
Monterey Peninsula Water Management District  
December 5, 2013  
Page 4

If the agency determines that any or all of the information is exempt from disclosure, I ask the agency to reconsider that determination in view of Proposition 59, which amended the state Constitution to require that all exemptions be "narrowly construed." Proposition 59 may modify or overturn authorities on which the agency has relied in the past. If the agency determines that any requested records are subject to a still-valid exemption, I ask that: (1) the agency exercise its discretion to disclose some or all of the records notwithstanding the exemption, and (2) with respect to records containing both exempt and non-exempt content, the agency redact the exempt content and disclose the rest. Should the agency deny part or all of this request, the agency is required to provide a written response describing the legal authority on which the agency relies.

Please let us know as soon as the records are available to inspect. Time is of the essence. We want to review the records as soon as possible, in light of the proposed second reading of the ordinance on December 9, 2013.

We ask the District to defer the second reading until the District has produced and we have inspected the responsive records, and the District has copied the records we request copied. The information about the origin of the proposed change to the District rules was not revealed in either of the written staff reports. The information that was only revealed at the November 18 hearing orally.

Thank you. Under the circumstances, we request a response from you no later than close of business on Friday, December 6, 2013, as to whether the District will be continuing the second reading of the ordinance to a future date.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

A handwritten signature in black ink, appearing to read "Molly Erickson", with a long horizontal flourish extending to the right.

Michael W. Stamp  
Molly Erickson

**Subject:** California Public Records Act Request  
**From:** Rachael Mache (mache@stamplaw.us)  
**To:** dstoldt@mpwmd.net;  
**Cc:** dave@laredolaw.net; erickson@stamplaw.us;  
**Date:** Thursday, December 5, 2013 4:14 PM

Mr. Stoldt:

Attached please find a Public Records Act request. Please note that as the letter states, time is of the essence.

Thank you.

Rachael Mache  
Paralegal  
Certified Law Student  
Law Offices of Michael W. Stamp  
479 Pacific Street, Suite One  
Monterey, CA 93940  
tel: 831-373-1214  
fax: 831-373-0242





LAW OFFICES OF  
**MICHAEL W. STAMP**

Michael W. Stamp  
Molly Erickson  
Olga Mikheeva  
Jennifer McNary

479 Pacific Street, Suite One  
Monterey, California 93940

Telephone (831) 373-1214  
Facsimile (831) 373-0242

December 6, 2013

David Stoldt  
General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
P.O. Box 85  
Monterey, CA 93942-0085

Subject: December 5, 2013 California Public Records Act request

Dear Mr. Stoldt:

This Office represents Save Our Carmel River, Patricia Bernardi, and The Open Monterey Project. Our clients are concerned about the District's proposed draft ordinance number 158, which would materially change the District rules with regard to water credit transfers.

On December 5, we faxed and emailed to you and to District Counsel David Laredo a letter seeking access to public records under the California Public Records Act. In that letter, we asked you to please let us know as soon as the records are available to inspect. We asked to review the records as soon as possible, in light of the proposed second reading of the ordinance on Monday, December 9, 2013. We emphasized in the letter and in the email text that time is of the essence.

Due to the circumstances as explained in the December 5 letter, including the new information on the DVD we received from the District on December 4, we requested the courtesy of a response from you no later than close of business on Friday, December 6, 2013, as to whether the District will be continuing the second reading of the ordinance from Monday, December 9, to a future date.

It is now past 5:30 PM on Friday, December 6, and we have not had any response from you as to any of our requests.

Very truly yours,

LAW OFFICES OF MICHAEL W. STAMP

A handwritten signature in black ink, appearing to read 'Molly Erickson', with a long horizontal line extending to the right.

Michael W. Stamp  
Molly Erickson



## City Attorney

The Office of the City Attorney functions as the legal advisor to the City and the council, and shall be available to all other City officials, boards, commissions, officers, and employees with respect to city business. Several licensed attorneys serve in the office of the City Attorney, under the direction of the City Attorney.

### Departmental Counsel

Legal services are principally provided by David C. Laredo, City Attorney, and Heidi Quinn, Assistant City Attorney. These services are provided under contract by the Pacific Grove law firm of De Lay & Laredo. The City Attorney provides general oversight to special counsel, whose services may be provided from time to time by other firms.

### Charter Responsibilities

Article 24 of the City Charter requires the City Attorney be appointed by the City Council, sets qualifications for that office, and ensures that the City Attorney has had special training for this office and experience in municipal corporation law. The City Attorney is required to prosecute all violations of City ordinances, and to draft ordinances, resolutions, contracts, or other legal documents or proceedings required by the Council or other officials. The City Attorney accepts legal service referrals from the Council, and is required to attend all meetings of the Council. The City Attorney advises on meeting procedures, including the Brown Act, Ethics, Records Retention, and Ex Parte Communications.

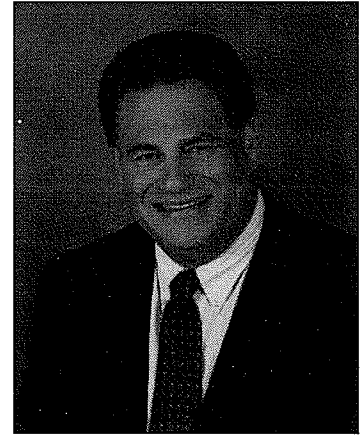
### Litigation

The Office of the City Attorney provides oversight and representation in matters regarding litigation or administrative proceedings, including those matters arising from claims by or against the City, and in adversarial proceedings before regional, State or Federal agencies and boards.

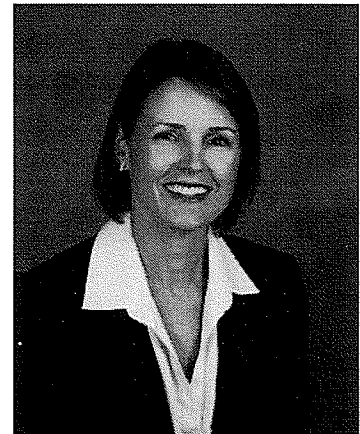
### Risk Management & Claims

The Office of the City Attorney provides risk management advice, oversight and recommendations, and reviews claims against the City for bodily injury, property damage or incidents alleging City responsibility.

City Attorney's Office  
300 Forest Avenue, 2nd Floor  
Pacific Grove, CA 93950  
Phone: (831) 648-3187  
Fax: (831) 657-9361



David C. Laredo, City Attorney



Heidi Quinn, Assistant City Attorney

Providing legal counsel to public and non-profit agencies



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## De Lay & Laredo

De Lay & Laredo provides legal counsel to public and non-profit agencies. De Lay & Laredo lawyers are experts in representing all types of public agencies in California since 1965. The firm currently serves a variety of agencies as City Attorney, Counsel, General Counsel and Special Counsel. Our representation of public agencies has included airports, cities, colleges, community services districts, counties, joint powers authorities, park districts, school districts, and water districts. De Lay & Laredo also represents non-profit agencies and select private businesses and individuals in the Central Coast and throughout California.

De Lay & Laredo has a depth of practice and experience. Some principal areas in which our public lawyers practice include:

- Brown Act, Conflicts of Interest and Ethics and Public Records Act
- Water Rights and Water Law
- CEQA
- E-Documents and Public Records
- Contracts
- Estate Planning, Probate, Trust Administration
- Litigation
- Writs and Appeals
- Assessments, Taxes and Proposition 218 Compliance
- Election and Political Law
- Litigation
- Writs and Appeals
- Housing Labor & Employment
- Land Use
- Negotiations
- Planning, Zoning and Subdivision Map Act
- Public Finance
- Transportation
- Utilities and Franchising

Through its work with non-profit agencies, De Lay & Laredo has developed an expertise in the area of adoptions and foster care law.

The attorneys at De Lay & Laredo strive to provide efficient, cost effective legal services, while establishing personal relationships and remaining accessible to each of our clients throughout their representation. We set the highest standards of professionalism and consider ourselves a small firm with big firm experience.

### Practice Areas

For over 45 years, the attorneys of De Lay & Laredo have represented public agencies throughout California. [De Lay \[...\]](#)

[Read More >>](#)

### Training

- Ethical Conduct in Public Service – Ethics & Brown Act Training
- California Environmental Quality Act (CEQA)
- Navigating the Governmental Maze
- Desalination Legal Issues

### Spotlight On Ethics

#### Basic Fair Political Practices Rule:

"No public official shall make, participate in, or use his or her official position to influence a governmental decision in which he or she has a financial interest."  
*Government Code Section 67110*

Deciding whether you have a disqualifying conflict of interest depends just as much, if not more, on the fact of a person's particular situation as it does the law.

#### How Do You Disqualify Yourself?

Identify the conflict on the record. Leave the mom.

#### What Happens If You Do Not Disqualify Yourself?

1. Violation a Misdemeanor
2. Loss of Office
3. Action Rescinded
4. Incarceration for six months
5. Civil Penalties/Restitution – Fines from \$5,000 to \$ 250,000 or more plus Attorney Fees

Do not be afraid to ask for advice. Please consult your agency's legal counsel or contact the FPPC. For more information, contact our office at 831.646.1502 or [info@laredolaw.net](mailto:info@laredolaw.net) or refer to [www.fppc.ca.gov](http://www.fppc.ca.gov)

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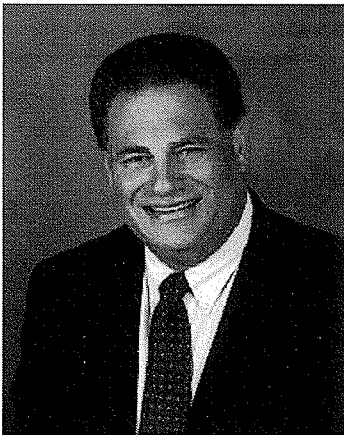
606 Forest Ave., Pacific Grove, CA 93950 | email: [info@laredolaw.net](mailto:info@laredolaw.net) | Phone: 831.646.1502 | Fax: 831.646.0377  
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## David C. Laredo



### Managing Partner

**Business Phone:** 831.646.1502

**Business Fax:** 831.646.0377

[dave@laredolaw.net](mailto:dave@laredolaw.net)

### Practice Areas

Representation of government agencies in the areas of municipal, agency, contract, environmental and water law. Areas of expertise include administrative law, labor negotiations, trial advocacy and appellate law.

### Representative Experience

City Attorney, City of Pacific Grove; General Counsel, Monterey Peninsula Water Management District, General Counsel, Monterey Salinas Transit District; General Counsel, Monterey Regional Taxi Joint Powers Agency

### Publications

- Avoid Consensus Killers, Directors Exchange, Credit Union Executives Society
- The CEO/Board Bond: Strengthening Credit Union Leadership, Credit Union Executives Society.
- Contributing Author, Chapter 6, "A Strategy for Effective Meetings."
- Consensus is the Key, Directors Newsletter, CUNA & Affiliates
- Taking 'Charge' of Board Committees, Credit Union Director Exchange, Credit Union Executives Society (Winter 1992).

### **Presentations and Speaking Engagements**

- CEQA Process Review – Certified Course provider
- "Ethics & Brown Act Training" – Certified Course provider
- "Introduction to Law and Legal Reasoning," – Monterey College of Law; Monterey Peninsula College
- "Water Law" – Monterey College of Law; Monterey Peninsula College

### **Guest Lecturer**

- Association of California Water Agencies (ACWA)
- California Continuing Education of the Bar (CEB)
- California Water Law Conference (CLE)
- California Special District's Association (CSDA)
- Credit Union Executive Society (CUES)
- Credit Union Information Society (CUIS)
- Graduate School of Engineering, San Jose State Univ.,
- Monterey College of Law, and Monterey Peninsula College.

### **Honors and other distinctions**

- Public Agency Official of the Year – Pacific Grove

### **Noteworthy cases**

- Applications before the CPUC – Water Supply related matters
- Applications before the SWRCB – Water Rights related matters
- Askew, et al. v. MPWMD – Property loss; inverse condemnation
- Butler v. Pacific Grove – Writ; Development permit
- Cal-Am v. Seaside – Groundwater Basin Adjudication
- Costello v. Pacific Grove – Writ; Election contest
- Davis v. Pacific Grove – Denial of Permit
- Galante v. MPWMD – CEQA issues
- Haddad v. Registrar of Voters – Writ Action; Election contest
- MPWMD v. SWRCB – Writ of Mandate
- NCGA v. MPWMD – In Rem Validation
- POWR, et al. v. Anchundo, et al. – Election contest
- SOCR, et al. v. MPWMD – CEQA challenge
- Save Our Peninsula v. MPWMD – Writ of Mandate
- SNG v. MPWMD – Writ of Mandate

### **Public Service**

Monterey Credit Union; Kinship Center; Children's Services Center; Boy Scouts of America ; Interim; Leadership

Monterey Peninsula

### Education

- Southwestern University, School of Law – Juris Doctor
- University of California, Los Angeles – B.A. English
- California State University, Northridge

### Court Admissions

- California Supreme Court
- U.S. Supreme Court
- U.S. District Court, Northern District
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Military Appeals

### Memberships

- California Bar Association
- Monterey County Bar Association
- Monterey Credit Union, Board of Directors;
- Kinship Center, Board of Directors;
- Childrens Services Center, Board of Directors;
- Boy Scouts of America, Monterey Council;
- Boy Scouts of America, Scoutmaster Troop 90 of Pacific Grove.

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## Heidi Quinn



**Associate**

**Business Phone:** 831.646.1502

**Business Fax:** 831.646.0377

[heidi@laredolaw.net](mailto:heidi@laredolaw.net)

### **Practice Areas**

Representation of public agencies and nonprofit organizations in the areas of municipal law, contracts, employment, land use and water law. Represent agencies and private clients in adoption and guardianship proceedings.

### **Representative Experience**

Assistant City Attorney, City of Pacific Grove, Monterey Peninsula Water Management District, Monterey-Salinas Transit District, Kinship Center

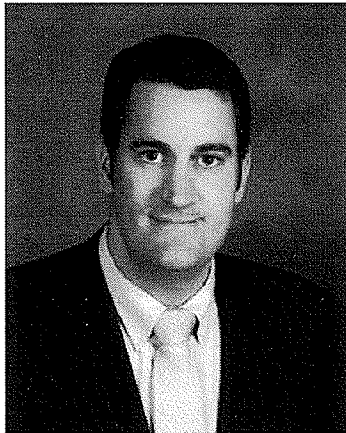
### **Presentations and Speaking Engagements**

Providing legal counsel to public and non-profit agencies



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## Alex Lorca



**Associate**

**Business Phone:** 831.646.1502

**Business Fax:** 831.646.0377

[alex@laredolaw.net](mailto:alex@laredolaw.net)

### **Practice Areas**

Representation of governmental agencies in the areas of public agency law. Representation of non-profits in employment, real estate, contract, and corporate governance matters. Appellate law, estate planning, probate and trust administration, and civil litigation.

### **Representative Experience**

Deputy City Attorney, City of Pacific Grove; Monterey Peninsula Water Management District; Monterey-Salinas Transit; Monterey Regional Taxi Authority; Interim, Inc.; Kinship Center; Post law school internship in the chambers of the Hon. Kay T. Kingsley; Law Student Intern, Superior Court of California, County of Monterey

**STATEMENT OF ECONOMIC INTERESTS  
COVER PAGE**

Date Received  
Official Use Only

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) ~~INDEXED~~  
Laredo David C.

**1. Office, Agency, or Court**

Agency Name  
Monterey Peninsula Water Management  
Division, Board, Department, District, if applicable  
District  
Your Position  
Attorney

► If filing for multiple positions, list below or on an attachment.

Agency: \_\_\_\_\_ Position: \_\_\_\_\_

**2. Jurisdiction of Office (Check at least one box)**

State  Judge or Court Commissioner (Statewide Jurisdiction)  
 Multi-County \_\_\_\_\_  County of Monterey  
 City of \_\_\_\_\_  Other \_\_\_\_\_

**3. Type of Statement (Check at least one box)**

Annual: The period covered is January 1, 2012, through December 31, 2012.  
-or-  
The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_, through December 31, 2012.  
 Assuming Office: Date assumed \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Leaving Office: Date Left \_\_\_\_/\_\_\_\_/\_\_\_\_ (Check one)  
 The period covered is January 1, 2012, through the date of leaving office.  
 The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_, through the date of leaving office.  
 Candidate: Election year \_\_\_\_\_ and office sought, if different than Part 1: \_\_\_\_\_

**4. Schedule Summary**

Check applicable schedules or "None."

► Total number of pages including this cover page: 7

Schedule A-1 - Investments - schedule attached  
 Schedule A-2 - Investments - schedule attached  
 Schedule B - Real Property - schedule attached  
 Schedule C - Income, Loans, & Business Positions - schedule attached  
 Schedule D - Income - Gifts - schedule attached  
 Schedule E - Income - Gifts - Travel Payments - schedule attached  
-or-  
 None - No reportable interests on any schedule

**5. Verification**

MAILING ADDRESS STREET CITY STATE ZIP CODE  
(Business or Agency Address Recommended - Public Document)  
606 Forest Avenue Pacific Grove CA 93950  
DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS (OPTIONAL)  
( 831 ) 646-1502 dave@laredolaw.net

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed 3/18/13 Signature [Signature]  
(month, day, year) File the originally signed statement with your filing official.

**SCHEDULE A-2**  
**Investments, Income, and Assets**  
**of Business Entities/Trusts**  
 (Ownership Interest is 10% or Greater)

**CALIFORNIA FORM 700**  
 FAIR POLITICAL PRACTICES COMMISSION

Name  
 David C. Laredo

**► 1. BUSINESS ENTITY OR TRUST**

De Lay & Laredo  
 Name  
 606 Forest Avenue, Pacific Grove, CA 93950  
 Address (Business Address Acceptable)

Check one  
 Trust, go to 2     Business Entity, complete the box, then go to 2

**GENERAL DESCRIPTION OF BUSINESS ACTIVITY**

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:  
 \$0 - \$1,999                                      / / 12                      / / 12  
 \$2,000 - \$10,000                                      ACQUIRED                      DISPOSED  
 \$10,001 - \$100,000  
 \$100,001 - \$1,000,000  
 Over \$1,000,000

NATURE OF INVESTMENT  
 Partnership     Sole Proprietorship     Other

YOUR BUSINESS POSITION Managing Partner

**► 1. BUSINESS ENTITY OR TRUST**

Name  
 Address (Business Address Acceptable)

Check one  
 Trust, go to 2     Business Entity, complete the box, then go to 2

**GENERAL DESCRIPTION OF BUSINESS ACTIVITY**

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:  
 \$0 - \$1,999                                      / / 12                      / / 12  
 \$2,000 - \$10,000                                      ACQUIRED                      DISPOSED  
 \$10,001 - \$100,000  
 \$100,001 - \$1,000,000  
 Over \$1,000,000

NATURE OF INVESTMENT  
 Partnership     Sole Proprietorship     Other

YOUR BUSINESS POSITION \_\_\_\_\_

**► 2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)**

\$0 - \$499                       \$10,001 - \$100,000  
 \$500 - \$1,000                       OVER \$100,000  
 \$1,001 - \$10,000

**► 2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)**

\$0 - \$499                       \$10,001 - \$100,000  
 \$500 - \$1,000                       OVER \$100,000  
 \$1,001 - \$10,000

**► 3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary)**

None

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**► 3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary)**

None

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**► 4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD OR LEASED BY THE BUSINESS ENTITY OR TRUST**

Check one box:  
 INVESTMENT     REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property

Description of Business Activity or City or Other Precise Location of Real Property

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:  
 \$2,000 - \$10,000                                      / / 12                      / / 12  
 \$10,001 - \$100,000                                      ACQUIRED                      DISPOSED  
 \$100,001 - \$1,000,000  
 Over \$1,000,000

NATURE OF INTEREST  
 Property Ownership/Deed of Trust     Stock     Partnership

Leasehold \_\_\_\_\_ Yrs. remaining     Other \_\_\_\_\_

Check box if additional schedules reporting investments or real property are attached

**► 4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD OR LEASED BY THE BUSINESS ENTITY OR TRUST**

Check one box:  
 INVESTMENT     REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property

Description of Business Activity or City or Other Precise Location of Real Property

FAIR MARKET VALUE                      IF APPLICABLE, LIST DATE:  
 \$2,000 - \$10,000                                      / / 12                      / / 12  
 \$10,001 - \$100,000                                      ACQUIRED                      DISPOSED  
 \$100,001 - \$1,000,000  
 Over \$1,000,000

NATURE OF INTEREST  
 Property Ownership/Deed of Trust     Stock     Partnership

Leasehold \_\_\_\_\_ Yrs. remaining     Other \_\_\_\_\_

Check box if additional schedules reporting investments or real property are attached

Comments: \_\_\_\_\_

**SCHEDULE C**  
**Income, Loans, & Business**  
**Positions**  
(Other than Gifts and Travel Payments)

**CALIFORNIA FORM 700**  
FAIR POLITICAL PRACTICES COMMISSION

Name  
**David C. Laredo**

**▶ 1. INCOME RECEIVED**

NAME OF SOURCE OF INCOME  
**City of Pacific Grove**

ADDRESS (Business Address Acceptable)  
**300 Forest Avenue, Pacific Grove, CA 93950**

BUSINESS ACTIVITY, IF ANY, OF SOURCE  
**Legal Services**

YOUR BUSINESS POSITION  
**City Attorney**

GROSS INCOME RECEIVED  
 \$500 - \$1,000     \$1,001 - \$10,000  
 \$10,001 - \$100,000     OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED  
 Salary     Spouse's or registered domestic partner's income  
 Loan repayment     Partnership  
 Sale of \_\_\_\_\_  
*(Real property, car, boat, etc.)*  
 Commission or     Rental Income, list each source of \$10,000 or more

Other **Legal Services**  
*(Describe)*

**▶ 1. INCOME RECEIVED**

NAME OF SOURCE OF INCOME  
**Monterey Peninsula Water Management District**

ADDRESS (Business Address Acceptable)  
**5 Harris Court Building G, Monterey, CA 93940**

BUSINESS ACTIVITY, IF ANY, OF SOURCE  
**Legal Services**

YOUR BUSINESS POSITION  
**General Counsel**

GROSS INCOME RECEIVED  
 \$500 - \$1,000     \$1,001 - \$10,000  
 \$10,001 - \$100,000     OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED  
 Salary     Spouse's or registered domestic partner's income  
 Loan repayment     Partnership  
 Sale of \_\_\_\_\_  
*(Real property, car, boat, etc.)*  
 Commission or     Rental Income, list each source of \$10,000 or more

Other **Legal Services**  
*(Describe)*

**▶ 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD**

\* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER\* \_\_\_\_\_  
ADDRESS (Business Address Acceptable) \_\_\_\_\_  
BUSINESS ACTIVITY, IF ANY, OF LENDER \_\_\_\_\_  
HIGHEST BALANCE DURING REPORTING PERIOD  
 \$500 - \$1,000  
 \$1,001 - \$10,000  
 \$10,001 - \$100,000  
 OVER \$100,000

INTEREST RATE \_\_\_\_\_ %     None  
TERM (Months/Years) \_\_\_\_\_

SECURITY FOR LOAN  
 None     Personal residence  
 Real Property \_\_\_\_\_  
*Street address*  
\_\_\_\_\_  
*City*  
 Guarantor \_\_\_\_\_  
 Other \_\_\_\_\_  
*(Describe)*

Comments: \_\_\_\_\_



MPWMD Board Meeting, November 18, 2013, Item 19

Partial Transcript prepared by Law Offices of Michael W. Stamp

Time <sup>1</sup> on DVD <sup>2</sup>	Comments
(50:30 - 53:20)	Public hearing begins, power point and oral presentation to the Board of Directors by Water Demand Manager Stephanie Pintar
(53:50)	<p>District Counsel David Laredo speaks to Stamp letter, says he will give more complete report at second reading.</p> <p>As to conflict of counsel, Laredo addressed his telephone conversation with Molly Erickson and said "I said I had no basis to assume I had a conflict." "I am not aware of any conflict that I have that would inhibit my participation in this matter as your advisor." . . . .</p> <p>"This District then would be a responsible agency. It would be required to take a look at the environmental documentation that accompanies the transfer application and make its independent assessment as to whether or not that documentation was sufficient. If it's not sufficient, under CEQA, this agency then has the ability to assert lead agency status to require further analysis." . . . .</p> <p>"I'm not persuaded of anything by my first reading of her letter to suggest that you should not follow staff's recommendation."</p>
(59:05) Director Lehman:	"On page 98, that you refer to, how many of the water credit transfers are in the pipeline?"
District Counsel Laredo:	"I'm not aware of any."

<sup>1</sup> All times approximate.

<sup>2</sup> DVD of MPWMD meeting mailed by MPWMD to Law Offices of Michael W. Stamp on December 3, 2013, in response to records request of November 20, 2013. This transcript was prepared from that DVD.

<p>WD Manager Pintar:</p> <p>Director Lehman:</p> <p>General Manager Stoldt:</p> <p>Director Lehman:</p>	<p>“There are currently none in the pipeline.”</p> <p>“So why is that a savings for us? You said before that this would only apply to those that have already applied for.”</p> <p>“Or <u>will</u>, and there <u>has</u> been an interest.”</p> <p>“Oh, so it’s now and in the future, anybody that applies for it.”</p>
<p>(1:00:31)</p> <p>Director Lehman:</p>	<p>“Why are we considering this? Are there people that have asked this question, what’s the...?”</p>
<p>General Manager Stoldt:</p>	<p>“Yes. It became initiated by a property owner, started with an owner, but pretty good proxy as an example for how it’s come up. Which is the desire to transfer a commercial water credit to another commercial location that is not contiguous. Which would be very easy under our current rules. And should that property owner cut the deal with the local jurisdiction’s planning department, they wanted some clarity that there would not be another, uh, procedure that would change or overrule that local jurisdiction’s planning department. It’s still a costly transaction, from the standpoint that if it’s a minor credit, say half an acre foot or an acre foot, if in fact it is deemed by the local jurisdiction that there is CEQA work that needs to be done, there may be unwillingness to undertake a hundred thousand dollar EIR for a transfer of that proportion. So to get to the point where there is a willingness to undertake that, property owners did not want looming out ahead of them another hurdle that could be a complete different outcome in terms of a hearing process. There is one in particular that initiated this, through one of the directors, brought it to our attention. We felt this is about as far as we could go in making the rule more accommodating without triggering other bigger CEQA-related issues.”</p>



<p>(1:02:22) Director Markey:</p>	<p>“When we talked about this at the committee level I could not support it because I just think procedurally, we are the water district, so the water credit transfer program is a unique program created by this District. It has been subject of litigation over the years, it has been finely honed as a result of different disagreements legally and whatnot, and I think that this agency has an obligation to analyze whether a water credit transfer proposal meets the criteria of the program and whether there is some unmitigated impact.</p> <p>“So I think I hear some of the things our GM is saying that make me cringe a little bit. It sounds basically that there is an attempt to be more accommodating and make this easier in some fashion. It strikes me as making the water credit transfer program somehow more lenient. That’s not procedurally how we do it. If we want to change the language of the water credit transfer ordinance, then we would change the language of the ordinance.</p> <p>“But as it stands now, this is our program, and we have to do the analysis of whether it meets the criteria of our program and I could use CEQA terminology and I used this at the committee level. I don’t think we can abdicate our lead agency status. I think, this is not being a land use jurisdiction, this is being a water district; this is a water program – the water district should implement it.”</p>
<p>(1:04:15)</p>	<p>Director Byrne makes motion to approve, seconded by Director Brower</p>
<p>(1:05 20) Director Lehman:</p>	<p>“I’ll speak to the motion. All of my historic knowledge that I have. I remember water credits and how dearly how we tried to make this as suitable as we possibly could under the circumstances. I really do feel that the water district has an obligation to the ratepayers and to the community to follow through on it.</p> <p>“I also think that we have the expertise within our staff to be able to validate, analyze, look at all of the circumstances, certainly anything that we do comes before the public in a public hearing, and with all of the intentions of having people be able to point out if there is anything that’s in error. So I</p>

	cannot support this motion.”
Director Lewis:	<p>“I do not usually make comment about why I vote the way I do, but I really feel that it is important for me to do so this time.</p> <p>“It’s my general understanding that the district is responsible for water use issues and jurisdictions are responsible for land use issues. In my opinion, this is indeed a water use issue, in which case the district is obligated to serve as the lead agency, according to the general rules. Though the ordinance would surely make the life much easier for the district, I don’t consider that of primary importance, and in my opinion, passing this ordinance would require the abdication of a portion of the district’s authority, which I cannot, in good conscience, support.”</p>
(1:07:05) District Counsel Laredo:	<p>“If this ordinance is enacted as presented, the land use jurisdiction would have to act as the lead agency under CEQA. But that’s not end of analysis when there is a responsible agency. This district certainly would be a responsible agency, taking an action. And that means the GM or the board if it was appealed would then have to make a determination – a finding – that lead agency action was adequate to analyze the water-related impacts, because that’s the scope of the decision making that would be before this board, and the options are to deem the lead agency decision to be adequate, or to find that it is not, and then to assert lead agency status to make those water-related analyses that need to me made to support the decision that this board would make.”</p>
Director Potter:	<p>“With that explanation, which was my understanding, I am prepared to support the motion.”</p>
(1:10:45)	
Director Lehman:	<p>“Who will be reviewing this before the jurisdictions – is it a staff review or is it a public hearing review from the elected body? Or is it determined by the time and shape of things?”</p>

District Counsel Laredo:	"I'm not sure I understand your question. At the jurisdiction level who would be doing this? That might vary from jurisdiction to jurisdiction."
Director Lehman:	"It's not at this point determined or – "
Laredo:	"You'd have to take a look at it under the zoning code for each of the jurisdictions as to what the approval authority might be."
Director Lehman:	"Do we have any opportunity to impact that decision? Can we make it part of the – "
District Counsel Laredo:	"No, we do not have authority. All we have the authority is to set the criteria for when we deem the application to be complete. And here this is saying that the application will be complete only when it is accompanied with CEQA review from the jurisdiction."
(1:11:35)	Roll call, motion passes 4 (Byrne, Brower, Pendergrass, Potter) to 3 (Markey, Lehman, Lewis).





**EXHIBIT 11-A**

**RESOLUTION NO. 2013-30**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
EXPRESSING APPRECIATION TO JUDI LEHMAN  
FOR TWELVE YEARS OF EXCEPTIONAL SERVICE AS DIVISION 2 DIRECTOR**

**WHEREAS**, Judi Lehman was elected to represent Voter Division 2 of the Monterey Peninsula Water Management District in November 2001, was reelected in 2005 and again in 2009.

**WHEREAS**, Ms. Lehman served as Chair of the Board in 2008 and also Vice Chair in 2003 and 2006.

**WHEREAS**, Ms. Lehman was an active participant on Board committees. She served for twelve years on the Administrative Committee, and was Chair in 2003. She was appointed Chair of the Rules and Regulations Review Committee in 2005, 2006, 2007, 2011, 2012 and 2013. She participated on the Legislative Advocacy Committee from 2008 through 2013. Ms. Lehman also committed her time to the Water Demand and Public Outreach Committees. In addition, she served as alternate to several committees.

**WHEREAS**, Ms. Lehman represented the Board of Directors on the Monterey County Special District Association for seven years between 2005 and 2011. She also represented the Water Management District on the Seaside Basin Watermaster in 2008, 2009 and 2010.

**WHEREAS**, Ms. Lehman consistently advocated for budgetary accountability. She encouraged staff to reduce expenses and seek alternate funding sources when possible to carry out environmental mitigation projects.

**WHEREAS**, Ms. Lehman supported the efficient use of existing water supplies through implementation of water conservation and reuse measures that would benefit residences and businesses such as retrofit rebate programs, installation of cisterns, and laundry-to- landscape systems.

**WHEREAS**, Ms. Lehman supported funding and construction of the MPWMD Aquifer Storage and Recovery projects, as an integral part of the solution to meet community water needs identified in State Water Resources Control Board Order 2009-0060. She was also a proponent of other alternatives such as desalination, stormwater reuse, and advanced recycled water treatment (Groundwater Replenishment) as a means to augment the local water supply.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors of the Monterey Peninsula Water Management District hereby recognizes Judi Lehman for 12 years of exceptional service to the District and the community.

On a motion by Director \_\_\_\_\_ and second by Director \_\_\_\_\_ the foregoing resolution is duly adopted this 18th day of November 2013 by the following votes.

Ayes:  
Nays:  
Absent:

I, David J. Stoldt, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a resolution duly adopted on the 18<sup>th</sup> day of November 2013.

Witness my hand and seal of the Board of Directors this \_\_\_\_ day of \_\_\_\_\_ 2013.

---

David J. Stoldt, Secretary to the Board



**ITEM: INFORMATIONAL ITEM/STAFF REPORTS****20. MONTHLY ALLOCATION REPORT**

<b>Meeting Date:</b>	<b>December 9, 2013</b>	<b>Budgeted:</b>	<b>N/A</b>
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<b>From:</b>	<b>David J. Stoldt, General Manager</b>	<b>Program:</b>	<b>N/A</b>
		<b>Line Item No.:</b>	

<b>Prepared By:</b>	<b>Gabriela Ayala</b>	<b>Cost Estimate:</b>	<b>N/A</b>
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**General Counsel Review:** N/A**Committee Recommendation:** N/A**CEQA Compliance:** N/A

**SUMMARY:** As of November 30, 2013, a total of **22.860** acre-feet (**6.7%**) of the Paralta Well Allocation remained available for use by the Jurisdictions. Pre-Paralta water in the amount of **36.317** acre-feet is available to the Jurisdictions, and **33.844** acre-feet is available as public water credits.

**Exhibit 20-A** shows the amount of water allocated to each Jurisdiction from the Paralta Well Allocation, the quantities permitted in November 2013 (“changes”), and the quantities remaining. The Paralta Allocation had no debits in November 2013.

**Exhibit 20-A** also shows additional water available to each of the Jurisdictions and the information regarding the Community Hospital of the Monterey Peninsula (Holman Highway Facility). Additional water from expired or canceled permits that were issued before January 1991 are shown under “PRE-Paralta.” Water credits used from a Jurisdiction’s “public credit” account are also listed. Transfers of Non-Residential Water Use Credits into a Jurisdiction’s Allocation are included as “public credits.” **Exhibit 20-B** shows water available to Pebble Beach Company and Del Monte Forest Benefited Properties, including Macomber Estates, Griffin Trust. Another table in this exhibit shows the status of Sand City Water Entitlement.

**BACKGROUND:** The District’s Water Allocation Program, associated resource system supply limits, and Jurisdictional Allocations have been modified by a number of key ordinances. These key ordinances are listed in **Exhibit 20-C**.

**EXHIBITS****20-A** Monthly Allocation Report**20-B** Monthly Entitlement Report**20-C** District’s Water Allocation Program Ordinances



**EXHIBIT 20-A**

**MONTHLY ALLOCATION REPORT**  
**Reported in Acre-Feet**  
**For the month of November 2013**

Jurisdiction	Paralta Allocation*	Changes	Remaining	PRE-Paralta Credits	Changes	Remaining	Public Credits	Changes	Remaining	Total Available
Airport District	8.100	0.000	5.224	0.000	0.000	0.000	0.000	0.000	0.000	5.224
Carmel-by-the-Sea	19.410	0.000	1.397	1.081	0.000	1.081	0.910	0.544	0.298	2.776
Del Rey Oaks	8.100	0.000	0.000	0.440	0.000	0.000	0.000	0.000	0.000	0.000
Monterey	76.320	0.000	0.193	50.659	0.000	0.030	38.121	0.000	6.601	6.824
Monterey County	87.710	0.000	10.345	13.080	0.000	0.000	7.827	0.000	2.200	12.545
Pacific Grove	25.770	0.000	0.000	1.410	0.000	0.768	15.874	0.000	0.228	0.996
Sand City	51.860	0.000	0.000	0.838	0.000	0.000	24.717	0.000	23.373	23.373
Seaside	65.450	0.000	5.701	34.438	0.000	34.438	2.693	0.000	1.144	41.283
<b>TOTALS</b>	<b>342.720</b>	<b>0.000</b>	<b>22.860</b>	<b>101.946</b>	<b>0.000</b>	<b>36.317</b>	<b>90.142</b>	<b>0.000</b>	<b>33.844</b>	<b>93.021</b>

Allocation Holder	Water Available	Changes this Month	Total Demand from Water Permits Issued	Remaining Water Available
Quail Meadows	33.000	0.000	31.821	1.179
Water West	12.760	0.000	8.310	4.410

\* Does not include 15.280 Acre-Feet from the District Reserve prior to adoption of Ordinance No. 73.

## EXHIBIT 20-C

### **District's Water Allocation Program Ordinances**

**Ordinance No. 1** was adopted in September 1980 to establish interim municipal water allocations based on existing water use by the jurisdictions. Resolution 81-7 was adopted in April 1981 to modify the interim allocations and incorporate projected water demands through the year 2000. Under the 1981 allocation, Cal-Am's annual production limit was set at 20,000 acre-feet.

**Ordinance No. 52** was adopted in December 1990 to implement the District's water allocation program, modify the resource system supply limit, and to temporarily limit new uses of water. As a result of Ordinance No. 52, a moratorium on the issuance of most water permits within the District was established. Adoption of Ordinance No. 52 reduced Cal-Am's annual production limit to 16,744 acre-feet.

**Ordinance No. 70** was adopted in June 1993 to modify the resource system supply limit, establish a water allocation for each of the jurisdictions within the District, and end the moratorium on the issuance of water permits. Adoption of Ordinance No. 70 was based on development of the Paralta Well in the Seaside Groundwater Basin and increased Cal-Am's annual production limit to **17,619** acre-feet. More specifically, Ordinance No. 70 allocated 308 acre-feet of water to the jurisdictions and 50 acre-feet to a District Reserve for regional projects with public benefit.

**Ordinance No. 73** was adopted in February 1995 to eliminate the District Reserve and allocate the remaining water equally among the eight jurisdictions. Of the original 50 acre-feet that was allocated to the District Reserve, 34.72 acre-feet remained and was distributed equally (4.34 acre-feet) among the jurisdictions.

**Ordinance No. 74** was adopted in March 1995 to allow the reinvestment of toilet retrofit water savings on single-family residential properties. The reinvested retrofit credits must be repaid by the jurisdiction from the next available water allocation and are limited to a maximum of 10 acre-feet. This ordinance sunset in July 1998.

**Ordinance No. 75** was adopted in March 1995 to allow the reinvestment of water saved through toilet retrofits and other permanent water savings methods at publicly owned and operated facilities. Fifteen percent of the savings are set aside to meet the District's long-term water conservation goal and the remainder of the savings are credited to the jurisdictions allocation. This ordinance sunset in July 1998.

**Ordinance No. 83** was adopted in April 1996 and set Cal-Am's annual production limit at **17,621** acre-feet and the non-Cal-Am annual production limit at **3,046** acre-feet. The modifications to the production limit were made based on the agreement by non-Cal-Am water users to permanently reduce annual water production from the Carmel Valley Alluvial Aquifer in exchange for water service from Cal-Am. As part of the agreement, fifteen percent of the historical non-Cal-Am production was set aside to meet the District's long-term water conservation goal.

**Ordinance No. 87** was adopted in February 1997 as an urgency ordinance establishing a community

benefit allocation for the planned expansion of the Community Hospital of the Monterey Peninsula (CHOMP). Specifically, a special reserve allocation of 19.60 acre-feet of production was created exclusively for the benefit of CHOMP. With this new allocation, Cal-Am's annual production limit was increased to **17,641** acre-feet and the non-Cal-Am annual production limit remained at **3,046** acre-feet.

**Ordinance No. 90** was adopted in June 1998 to continue the program allowing the reinvestment of toilet retrofit water savings on single-family residential properties for 90-days following the expiration of Ordinance No. 74. This ordinance sunset in September 1998.

**Ordinance No. 91** was adopted in June 1998 to continue the program allowing the reinvestment of water saved through toilet retrofits and other permanent water savings methods at publicly owned and operated facilities.

**Ordinance No. 90 and No. 91** were challenged for compliance with CEQA and nullified by the Monterey Superior Court in December 1998.

**Ordinance No. 109** was adopted on May 27, 2004, revised Rule 23.5 and adopted additional provisions to facilitate the financing and expansion of the CAWD/PBCSD Recycled Water Project.

**Ordinance No. 132** was adopted on January 24, 2008, established a Water Entitlement for Sand City and amended the rules to reflect the process for issuing Water Use Permits.

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**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Sarah Hardgrave, Environmental Programs Manager  
Ashley Hefner, Senior Planner  
**MEETING DATE:** March 20, 2013  
**SUBJECT:** Status of the City's MPWMD Water Allocation  
**CEQA STATUS** Not a Project under CEQA (CEQA Guideline Section 15378(B)(5))

**RECOMMENDATION**

Receive a report on the status of the City's water reserves per the January 2013 MPWMD monthly allocation report, and distribute 0.153AF of the remaining water allocation to the Governmental Category and the remaining 1.228AF to the Commercial Category.

**BACKGROUND**

Pacific Grove Municipal Code (PGMC) Chapter 11.68 governs the City's water allocation regulations, and establishes four allocation categories, based on use, for: Residential, Commercial, Governmental, and City-administered community reserve. The City Council last received a status report on the City's water allocation on July 11, 2012, at which time the Council made no change to the amount of water allocated to each category [1.1865 acre feet (AF) in Commercial, 1.509AF in Community Reserve, and no water in the Residential or Governmental Categories]. The Council directed staff to return with the next update following adoption of zoning amendments to commercial uses, which have now been adopted and will go into effect at the end of this month.

At this time, the Commercial water allocation has been granted to three projects (0.05AF to Aqua Spa, 0.1365AF to Café Ariana, and 0.5AF to Sea Breeze Inn and Cottages), and a fourth project, Seabreeze Lodge, has requested 0.5AF and is pending discretionary permit approval (see Attachment 1). With these four projects, no water allocation remains in the Commercial category. One project has been allocated 0.1280AF of water from the Community Reserve, the construction of public restrooms at the Point Pinos Lighthouse. The remaining amount of water in the Community Reserve Category is 1.3810 acre-feet.

The January 2013 Monterey Peninsula Water Management District (MPWMD) monthly water allocation report continues to state that Pacific Grove has a total of 2.509 AF of water available in its allocation (Attachment 2). However, this number does not reflect the water that has been allocated over the last two years. Staff is presently verifying with MPWMD that the water allocations that have been granted to projects have been deducted.

On October 20, 2009, the State Water Resources Control Board considered and adopted a Cease and Desist Order (CDO) against California American Water (Cal-Am). The CDO includes a moratorium on new service connections and expansion of use at existing connections due to a change in zoning or use. The California Public Utilities Commission has taken action to allow Cal-Am to implement the moratorium, and the moratorium is in effect.

## **DISCUSSION**

As previously directed, water allocations in the Commercial category have been granted in accordance with priorities for distribution of water to commercial projects:

1. Motel projects within the R-3-M zone
2. Projects within the Downtown Commercial area
3. Projects that generate sales tax revenue
4. Diversification of business activities/types
5. Expansion of existing uses
6. Correction of existing problems

All residential projects that would require water to be assigned in addition to available onsite credits have been placed on Water Wait List I, which currently has nine residential projects. Of the nine projects, four are new single family dwellings on vacant properties that do not currently have a water meter. Under the CDO moratorium, Cal-Am is unable to serve these projects at this time. Per the requirement of PGMC Section 11.68.040(e), water is assigned based on the priority order of the list. Because of Cal-Am's moratorium on new connections, no new single-family dwelling project could be served unless there is an existing water meter on site.

The Pt. Pinos Lighthouse allocation of 0.128AF from the Community Reserve would have been more appropriately distributed from the Governmental Category. In addition, the Lovers Point Children's Pool rehabilitation will expand the pool by 126 square feet. The additional water allocation required for this project is estimated at 0.025AF, based on the existing water credit and square footage of the pool.

Planning staff has heard from several interested parties within the last few months regarding projects that would require reallocation into the Commercial Category, that otherwise would not be able to move forward. As an alternative, the Council could direct staff to prepare a resolution to redistribute the water among the different categories, for example distributing water to the Residential category to serve remodeling projects on Water Wait List I.

At this time, staff requests Council direction to distribute 0.153AF to the Governmental Category and the remaining 1.228AF to the Commercial Category. This is the preferred approach because it would support and encourage business vitality as facilitated by the commercial uses zoning code amendments recently adopted by the City Council, as well as important City projects.

## **OPTIONS**

1. Maintain the entire 1.3810AF in the Community Reserve Category, since this would keep all remaining water available for unforeseen needs in the future.
2. Distribute water in different amounts to the Commercial, Governmental, and Community Reserve Categories.

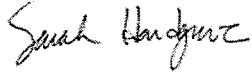
**FISCAL IMPACT**

None.

**ATTACHMENT**

1. Water Wait List I
2. MPWMD Monthly Allocation Report, dated January, 2013

RESPECTFULLY SUBMITTED:



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Sarah Hardgrave  
Environmental Programs Manager

REVIEWED BY:



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Thomas Frutchey  
City Manager

**Water Requested & Available as of 3/11/13**

	Date	Applicant (Owner)	Address	FU Req.	FU Alloc.	AF Req.	AF Alloc.	Running	Source	
<b>Residential water requested - WWL I</b>								0.0000		
1	02/25/09	Moore (Cornell)	1601 Sunset	1.00	0.00	0.0100	0.0000	-0.0100		
2	03/10/09	Larson	1040 Benito	27.60	0.00	0.2760	0.0000	-0.2860		
3	03/11/09	Wasley	427 Evergreen	2.00	0.00	0.0200	0.0000	-0.3060		
4	05/12/09	Chandler (Scholink)	Chestnut (APN 6-446-13)	27.60	0.00	0.2760	0.0000	-0.5820		
5	05/26/09	Bailey (Perkins)	945 Cedar	27.15	0.00	0.2715	0.0000	-0.8535		
6	06/23/09	Higbie	874 Gibson	1.00	0.00	0.0100	0.0000	-0.8635		
7	09/04/09	O'Halloran	1107 Pico	6.80	0.00	0.0680	0.0000	-0.9315		
8	10/19/09	Watts	1125 Piedmont	2.00	0.00	0.0200	0.0000	-0.9515		
9	03/05/10	Jovellana	1007 Hillside	20.1	0.00	0.201	0.0000	-1.1525		
<b>Subtotal:</b>				<b>115.25</b>	<b>0.00</b>	<b>1.1525</b>	<b>0.0000</b>	<b>-1.1525</b>		<b>Total I</b>
<b>Commerical water requested</b>								1.1865		2/1/12 Comrr
1	4/29/2011	Branum	1199 Forest (Aqua Spa)	5.00	5.00	0.0500	0.0500	1.1365	Pre-Peralta	
2	9/23/2011	Favaloro, Marie	543 Lighthouse (Café Ariana)	13.65	13.65	0.1365	0.1365	1.0000	Public	
3	12/8/2011	Case, Jerry	1100 Lighthouse (Sea Breeze Inn)	50.00	50.00	0.50	0.50	0.5000	Public	
4	2/20/2013	Case, Jerry	1101 Lighthouse (Seabreeze Lodge)	50.00	50.00	0.50	0.50	0.0000	Public	ON H
<b>Subtotal:</b>				<b>68.65</b>	<b>68.65</b>	<b>0.6865</b>	<b>0.6865</b>	<b>0.0000</b>	<b>AF Available</b>	
<b>Governmental water requested</b>										
1						0.0000	0.0000	0.0000		
<b>Subtotal:</b>						<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>AF Available</b>	
<b>Community Reserve water requested</b>								1.5090		2/1/12
1	2/19/2013	City of Pacific Grove	80 Asilomar (Pt Pinos Lighthouse)	12.8	12.8	0.1280	0.1280	1.3810	Public	
<b>Subtotal:</b>				<b>12.8</b>	<b>12.8</b>	<b>0.128</b>	<b>0.128</b>	<b>1.3810</b>	<b>AF Available</b>	

**EXHIBIT 23-A**

**MONTHLY ALLOCATION REPORT**  
 Reported in Acre-Feet  
 For the month of January 2013

Jurisdiction	Paralta Allocation*	Changes	Remaining	PRE-Paralta Credits	Changes	Remaining	Public Credits	Changes	Remaining	Total Available
Airport District	8.100	0.000	5.224	0.000	0.000	0.000	0.000	0.000	0.000	5.224
Carmel-by-the-Sea	19.410	0.000	1.397	1.081	0.000	1.081	0.560	0.000	0.492	2.970
Del Rey Oaks	8.100	0.000	0.000	0.440	0.000	0.000	0.000	0.000	0.000	0.000
Monterey	76.320	0.000	0.035	50.659	0.000	0.181	38.121	0.000	6.601	6.817
Monterey County	87.710	0.000	10.090	13.080	0.000	0.000	7.827	0.000	2.424	12.514
Pacific Grove	25.770	0.000	0.000	1.410	0.000	2.128	15.874	0.000	0.381	2.509
Sand City	51.860	0.000	0.000	0.838	0.000	0.000	24.717	0.000	23.373	23.373
Seaside	65.450	0.000	5.715	34.438	0.000	34.438	2.693	0.000	1.359	41.512
<b>TOTALS</b>	<b>342.720</b>	<b>0.000</b>	<b>22.461</b>	<b>101.946</b>	<b>0.000</b>	<b>37.828</b>	<b>89.792</b>	<b>0.000</b>	<b>34.630</b>	<b>94.919</b>

Allocation Holder	Water Available	Changes this Month	Total Demand from Water Permits Issued	Remaining Water Available
Quail Meadows	33.000	0.084	31.741	1.259
Water West	12.760	0.000	8.014	4.706

\* Does not include 15.280 Acre-Feet from the District Reserve prior to adoption of Ordinance No. 73.

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CITY OF MONTEREY  
WATER ALLOCATION CHART  
OCTOBER 2013

<b>TOTAL WATER AVAILABLE:</b>	<b>6.817 Acre Feet (A)</b>
<b>Water Conditionally Reserved:</b>	
<b>(1) Affordable Housing</b>	0.000
<b>(2) Public Projects Reserve</b>	0.000
<b>(3) Public Projects (High Priority)</b>	0.000
Public Service Center	0.000
Landscaping @ 256 Figueroa Street	0.000
W.O.B. landscaping	0.000
CalTrans Median Landscaping Project	0.000
Wharf II restroom expansion	0.000
W.O.B. restroom (volleyball area)	0.000
<b>Balance:</b>	<b>6.817</b>
<b>(4) Single Family Remodel</b>	<b>0</b>
<b>(5) Other Residential</b>	<b>0</b>
<b>(6) Commercial Projects</b>	<b>0</b>
<b>(7) Economic &amp; Environmental Sustainability</b>	<b>-4.68556 (D)</b>
<b>Miscellaneous Reserved</b>	
Housing	
Del Monte Beach Resubdivision	-0.428 (B)
459 Alvarado Street	-1.6
<b>Balance:</b>	<b>0.103</b>

<b>WATER WAITING LISTS:</b>	<b>Total:</b>	<b>Number</b>	<b>Amount</b>
		<b>36</b>	<b>34.961 (C)</b>

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(A)	Based on May 2012 MPWMD Allocation Report
(B)	2.57 AF total allocation for 14 SFDs at Del Monte Beach. Remainder of 0.428 AF
(C)	Water Waiting List includes Ocean View Plaza (27.89 AF)
(D)	230 Lighthouse Avenue - 1.358 595 Munras Avenue - .42 2201 North Fremont Street - .98556 449 Calle Principal - 1.15 520/522 Fremont Street - .597 539 Hartnell Street - .08 211 Hoffman - .095

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Notes: Max of .49 AF per commercial project, .249 AF per residential project, to be allocated by staff. Water for commercial projects requiring .50 AF, or residential projects proposed to use .25 AF or more total requires City Council approval. (City Council action 8/3/99)

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MPWMD Group III uses must be approved by City Council (8/3/99)

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## WATER WAITING LIST COMBINED CHART LISTED CHRONOLOGICALLY

PROJECT/ NAME	TYPE OF PROJECT	ADDRESS	DATE SUBMITTED	WATER REQUEST (AF)	PROPOSED WATER USE (AF)	CUMMULAT TOTAL
1	Sumida	36 Via Castaneda	02/07/2003	0.242	0.242	0.242
2	St. John's Greek Church	3051 Monterey/Salinas Hwy	04/09/2003	0.708	0.708	0.948
3	Real	50 Porta Vista Pl	07/15/2003	0.249	0.249	1.197
4	Real	48 Porta Vista Pl	07/15/2003	0.249	0.249	1.446
5	Real	54 Porta Vista Pl	07/15/2003	0.249	0.249	1.695
6	Real	52 Porta Vista Pl	07/15/2003	0.249	0.249	1.944
7	Takigawa	685 Newton St	07/28/2003	0.242	0.242	2.186
8	Tringali	780 Lyndon St	08/21/2003	0.249	0.249	2.435
9	Real	46 Porta Vista	08/26/2003	0.043	0.154	2.478
10	Carey Trust	845 Filmore St	09/14/2003	0.201	0.201	2.679
11	Jack Stracuzzi	798 Wave Street	04/12/2004	0.267	0.267	2.946
12	S. Shaw/Hare on Houston	578 B Houston Street	04/30/2004	0.057	0.034	3.003
13	Richards, Robt & Richard	879 Newton Street	05/07/2004	0.245	0.245	3.248
14	Dinnerl, Chris & Demice	418 High Street	02/11/2005	0.249	0.249	3.497
15	Hamilton, Maurice & Vivian	23 Yerba Buena Ct	02/14/2005	0.246	0.246	3.743
16	Cardinale, Frank	774 Spencer St	07/17/2005	0.039	0.165	3.782
17	Ocean View Plaza	457-470-570 Cannery Row	07/21/2005	27.89	27.89	31.672
18	Khaise, Salkitah	643 Ramona Ave	10/17/2005	0.101	0.234	31.773
19	Hallisey, Mary	747 Filmore St	02/13/2006	0.219	0.219	31.992
20	Ahn, Hyun Sook	4 Cramden Drive	03/08/2006	0.243	0.243	32.235
21	Fozgournavelli, Farhad	601 Lyndon St	03/23/2006	0.392	0.392	32.627
22	Michel, Steve	78 Via Ventura	03/24/2006	0.164	0.164	32.791
23	Giannanco, Vince	30 Batonda Lane	05/30/2006	0.074	0.181	32.865
24	Mr. & Mrs. Galt	119 Montecito	09/14/2006	0.167	0.328	33.032
25	Dr. Jorge Duarte	455 Webster	09/01/2006	0.058	0.274	33.09
26	Dale & Tracy Hogan	149 Tide Ave	09/23/2007	0.047	0.248	33.137
27	Aburmale, LLC	17 Mar Vista Dr	09/24/2007	0.02	0.104	33.157
28	Lavorini, Four LLC	136 Tide Ave	10/19/2007	0.2475	0.2475	33.405
29	Natalie Webb	855 Oak Street	03/13/2009	0.047	0.181	33.452
30	Davi	2050 Matisela Circle	05/17/2008	0.023	0.162	33.475
31	Tackbery	132 Tide Avenue	09/06/2008	0.231	0.231	33.706
32	Beardaley	201 Cannery Row	01/15/2009	0.01806	0.614	33.719
33	Henry's BBQ	401 Lighthouse Avenue	01/29/2009	0.5	0.74	34.219
34	Malibu Tan & Surf	2024 Del Monte Ave #B	05/10/2009	0.2128	0.3659	34.431
35	Strangle	800 Irving Avenue	10/21/2009	0.5295	0.5165	34.961
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## CITY OF PACIFIC GROVE

### AGENDA REPORT

**To:** Honorable Mayor and Members of the City Council

**From:** Rudy Fischer, Councilmember

**Meeting Date:** June 4, 2013

**Subject:** A motion to reallocate a small amount of water to the Residential Water Category for use by homeowners listed on the Water Wait List so that they can make additions to their existing homes.

**CEQA:** This action does not constitute a "project" as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

#### **RECOMMENDATION**

Approve the City staff recommendation from the March 20, 2013 City Council meeting to transfer up to .20 Acre Feet (AF) of water from the City's Community Reserve allocation of 1.3810 AF to the Residential Reserve; and authorize its distribution to those with projects already on the City's Water Wait List.

#### **BACKGROUND**

Pacific Grove Municipal Code (PGMC) Chapter 11.68 governs the City's water allocation and establishes four allocation categories; based on use. These categories are: Commercial, Governmental, City-administered Community Reserve, and Residential. At this time there is no water in the Residential category.

Because of the County and Cal-Am's moratorium on new water connections, building sites and lots of record that do not already have water meters will not be allowed to build due to water use restrictions in Monterey County. Homes that already have water meters installed and simply need additional water allocation, however, are allowed to request additional water units. Per the requirements of PGMC Section 11.68.040(e), water can be assigned based on the priority order on a wait list.

City staff reviews the Water Wait List for existing residential units in Pacific Grove per Municipal Code 11.68.060 on a semi-annual basis. The purpose of this review is to identify the water needs of homeowners who have expressed a desire to initiate remodeling projects which will require additional water to be moved to the Residential category.

In reviewing this list, staff has determined that between 0.128 and 0.200 acre feet – in total - are needed for all of the existing projects on the Water Wait List.

**DISCUSSION**

Because of its history, Pacific Grove has many smaller homes which some current homeowners wish to expand or remodel. Additionally, some of today's home buyers want to have the option of rebuilding, expanding, or altering some properties.

Allowing houses to be remodeled with additional water fixtures makes those homes more comfortable to live in; as well as more valuable and marketable. Thus, in exchange for the additional water, homeowners may be required to agree that any additions will qualify their project as a major remodel. As such, those homes may be reassessed for property tax purposes to account for the substantial improvement such additional water fixtures provide.

In order to be added to the Water Wait List in the future, those applying must ensure that all existing discretionary entitlements are obtained and used first, must submit requests for additional water, and have a building permit application on file.

**FISCAL IMPACT:**

There is no immediate fiscal impact of transferring water from one category to another. By transferring water to the residential category there may be future negative impacts of not having water available for commercial or governmental purposes for projects which could produce Transient Occupancy or sales taxes. On the other hand, homes with additional fixtures may be more valuable; thus paying higher property taxes.

**RESOLUTION NO 13-**

**A MOTION TO REALLOCATE UP TO 0.20 ACRE FEET OF WATER TO THE  
RESIDENTIAL CATEGORY FOR USE BY HOMEOWNERS WHO HAVE  
SUBMITTED APPLICATIONS TO FIX UP HOMES AND ARE ALREADY ON THE  
CITY'S WATER WAIT LIST**

WHEREAS, Pacific Grove Municipal Code 11.68.101 provides that "Effective August 1, 1995, all water remaining allocated to the City by the Monterey Peninsula Water Management District and all water becoming available subsequent to that date shall be allocated by resolution passed and adopted by the council, to the four allocation categories: (1) residential; (2) commercial; (3) governmental; (4) city-administered community reserve," and

WHEREAS, Pacific Grove has the discretionary authority to reallocate water between the various categories, and

WHEREAS, Water assigned to the city-administered category may be allocated by the council to any or all of the other three allocation categories once there is a reserve supply of water sufficient to warrant such allocation, amounts, and its distribution among the three categories in the sole discretion of the council and dependent on community needs, and

WHEREAS, the lack of water in the Residential Reserve category presents an unreasonable barrier to homeowners who wish to undertake reasonable remodels and upgrades to their homes, and

WHEREAS, on the Monterey Peninsula water is a thing of extreme value, a condition which is unlikely to change for many years to come; and in exchange for relinquishing such water the City should be entitled to a benefit, and

WHEREAS, allowing houses to be remodeled with additional water fixtures makes those homes more comfortable, more valuable, and more marketable. Thus, in exchange for the additional water, homeowners may be required to agree that any additions will qualify their project as a major remodel. As such, those homes may be reassessed to account for the substantial improvement such additional water fixtures provide.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
PACIFIC GROVE:**

SECTION 1. The City Council authorizes the transfer up to .20 Acre Feet (AF) of water from the Community Reserve allocation of 1.3810 Acre Feet to the Residential Reserve.

SECTION 2. City staff is authorized to allocate this water to projects which are currently on the City's Water Wait List; providing that those projects conform to all regulatory requirements in every other regard.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 19th  
day of June 2013, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

\_\_\_\_\_  
BILL KAMPE, Mayor

ATTEST:

\_\_\_\_\_  
DAVID CONCEPTION, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
DAVID C. LAREDO, City Attorney

**ITEM: GENERAL MANAGER'S REPORT**

**13. UPDATE ON DEVELOPMENT OF WATER SUPPLY PROJECTS**

**Meeting Date:** November 18, 2013                      **Budgeted:** N/A

**From:** David J. Stoldt                                      **Program/** N/A  
    **General Manager**                                      **Line Item No.:** N/A

**Prepared By:** David J. Stoldt                              **Cost Estimate:** N/A

**General Counsel Approval:** N/A

**Committee Recommendation:** N/A

**CEQA Compliance:** N/A

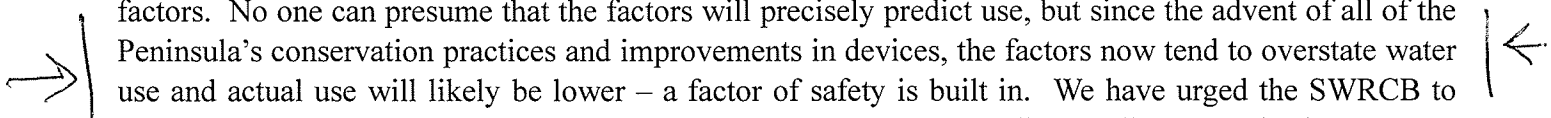
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**DISCUSSION:**

**SWRCB:** On November 12, 2013 the District General Manager and General Counsel met with representatives of the State Water Resources Control Board (SWRCB), the Attorney General's office, California American Water (Cal-Am), the Regional Water Authority, Sierra Club, attorney for water rights holders, and the Pebble Beach Company (Parties to the lawsuit over the Cease and Desist Order (CDO)) and held initial discussions about the process for petitioning for a modification of the CDO under section 1832 of the California Water Code. The parties agreed to work with SWRCB enforcement staff in 2014 and consider formal action for modification in 2015. The Parties also agreed to meet regularly and open up the group to additional interests in mid- to late-2014.

On October 16, 2013 the General Manager, General Counsel, and Stephanie Pintar met with Barbara Evoy, John O'Hagan, and James Kassel of the SWRCB enforcement staff in Lathrop to discuss resolving the mixed-use metering issue. The District proposed that the SWRCB allow the water use factor methodology to be used to determine whether a proposed use would intensify use of water. Further, in the case of determining whether a new meter should be set, no discount or factor of safety should be applied, so that we would be consistent with existing uses. We believe that the interpretation of the CDO can be honored, but the April 2012 interpretative guidelines significantly simplified. The goal is to let an existing parcel split, subdivide, add a new address, change the type of business, go to mixed-use, and so forth, so long as the water used at that site will not be increased based on assumed factors. No one can presume that the factors will precisely predict use, but since the advent of all of the Peninsula's conservation practices and improvements in devices, the factors now tend to overstate water use and actual use will likely be lower – a factor of safety is built in. We have urged the SWRCB to allow the District to use its methodology to determine whether a building applicant or a business owner has a plan that will not intensify water use and then direct Cal-Am to set the meter. SWRCB staff indicated last week that a draft letter proposal is being circulated within the SWRCB. The General Manager spoke to the SWRCB General Counsel, the SWRCB Chair Felicia Marcus, on this issue last week and has meetings set with two other board members on the topic in the next week.

**Desalination Facility (A.12-04-019):** The District finalized the draft legislation and one-page summary sheet for the Water Rate Relief Bonds and forwarded to Senator Monning's staff for them to begin



working with the Legislative Counsel's office to convert into a Senate Bill. The General Manager has made 8 public presentations on the status of the water supply projects and the use of the Water Rate Relief Bond financing and its benefits to ratepayers. He will continue to make 4 to 8 more presentations in coming weeks.

**Groundwater Replenishment (GWR):** District staff has been meeting with MRWPCA staff and consultants every other Friday, tracking project progress. CEQA work and source water feasibility studies continue to proceed.

With respect to GWR, the District has been developing a form of water purchase agreement that minimizes costs to ratepayers and will provide a secure financing source. Working with MRWPCA the District will build a long term financing plan that will be used to secure low cost State Revolving Fund loans and other grant monies. The District also is negotiating a consulting contract with Schaff and Wheeler work with the District and MRWPCA on source water rights issues.

**Aquifer Storage and Recovery (ASR):** The District has reached agreement with the City of Seaside for the size and shape of the easement for the Santa Margarita site and will enter into a reimbursement agreement for an appraisal. Staff will be directing General Counsel to modify proposed agreements for the City of Seaside which will enable FORA to approve final plans. This could lead to completion of the backflush pond, undergrounding of pipes, paving, and landscaping in 2014.

**Alternative Desalination Project:** An oral report was provided at the October 21<sup>st</sup> Board meeting. General Manager Stoldt has a meeting set with DeepWater representatives this week.

On November 4<sup>th</sup>, the District was formally served with a summons advising the District that it is being sued by Water Plus over its cost-sharing agreement with DeepWater Desal and its participation in the project environmental and permitting work.

**Local Water Projects:** The District General Counsel has drafted a grant agreement that is being finalized by staff. This should enable actual award of monies to the Airport District and the City of Pacific Grove before the end of the calendar year. District staff met with the Airport and its Army Corp contractor to discuss their project.

**MPWSP Governance Committee:** Please see agenda item 2 on the Consent Calendar.

**Ordinance 152 Citizen's Panel:** The panel will meet November 19<sup>th</sup> and discuss progress on the adopted FY2013-14 capital improvement plan and expenditures of the Water Supply Charge.

## **EXHIBIT**

None