



EXHIBIT 14-D

FINDINGS of APPROVAL

CONSIDER APPLICATION TO CREATE “MALPASO” WATER DISTRIBUTION SYSTEM AND AMEND CALIFORNIA-AMERICAN WATER COMPANY WATER DISTRIBUTION SYSTEM (“MALPASO AMENDMENT”)

**Well Parcel: APN 015-162-038 (formerly known as A09-162-34 and -36)
Service Area: CAW “Main” System as specified in SWRCB License 13868A
Application #WDS-20150715MAL, Permit #M15-04-L3 and #M15-05-L3**

Adopted by MPWMD Board of Directors on August 17, 2015

Unless noted otherwise, all cited documents and materials are available for review at the MPWMD Office, 5 Harris Court, Building G, Monterey (Ryan Ranch).

It is hereby found and determined as follows:

1. **FINDING:** Co-Applicant **California-American Water Company (CAW)**, a California corporation, and an investor-owned public utility regulated by the California Public Utilities Commission (CPUC), is the primary water purveyor for the Monterey Peninsula. CAW’s “main” Water Distribution System (WDS) serves nearly 40,000 customers and derives its Source of Supply primarily from the Carmel Valley Alluvial Aquifer (CVAA) and the Seaside Groundwater Basin. In July 2015, co-Applicant **Malpaso Water Company, LLC**, a California limited liability company (Malpaso), was issued certain water rights to divert water from the CVAA as specified in State Water Resources Control Board (SWRCB) License 13868A. As described in MPWMD Application #WDS-20150715MAL, Malpaso will construct a new “Eastwood/Cañada Well” and pipeline on CAW property (Assessor’s Parcel Number 015-162-038, formerly APN A09-162-34 and -36), which will deliver up to 85.6 Acre-Feet per Year (AFY) of raw water directly into the CAW system on the same Parcel pursuant to License 13868A and agreements signed by CAW and Malpaso. Malpaso will retain CAW to operate the Eastwood/Cañada Well and deliver water to Malpaso subscribers within the CAW WDS on Parcels located within the Carmel River Watershed and/or the City of Carmel-by-the-Sea.

MWPMD Ordinance No. 165 sets a Water Entitlement of 80.0 AFY metered sales for future Malpaso subscribers (Benefitted Properties);

this lower amount accounts for conveyance losses between the wellhead and customer. Until the full 80.0 AFY is used, CAW has access to the remaining Eastwood/Cañada Well production to serve its customers (instead of using CAW Wells), thereby reducing unauthorized CAW extractions from the CVAA and facilitating compliance with the SWRCB Cease and Desist Order (CDO), Order WR 2009-0060 (as amended). Environmental review in compliance with the California Environmental Quality Act (CEQA) has been performed by the SWRCB for approval of License 13868A and related actions. The subject Application will result in the issuance of two WDS Permits: (1) Permit #M15-04-L3 to create the Malpaso WDS, and (2) Permit #M15-05-L3 to amend the CAW WDS, referred to herein as the “CAW/Malpaso Amendment.”

EVIDENCE: Application #WDS-20150715MAL submitted July 15, 2015, and pertinent materials including: site map; deed to Parcel A09-162-34 and A09-162-36 (Reel 1596, page 494, ID#G49904); *License Agreement between California-American Water Company and Malpaso Water Company, LLC for the Eastwood/Cañada Well* dated June 1, 2015; *Water Conveyance and Temporary Use Agreement between California American Water Company and Eastwood* dated April 27, 2015; SWRCB Division of Water Rights, Division Decision 2015-0001; SWRCB water right License 13868A dated July 3, 2015; Draft Environmental Impact Report (EIR) for *Eastwood/Odello Water Right Change Petition* (Project), SCH #2014031008, dated October 2014; Final EIR for *Eastwood/Odello Water Right Change Petition* dated June 2015; SWRCB certification of EIR dated July 3, 2015; SWRCB Notice of Determination of Approval of the Project dated July 7, 2015. SWRCB Cease and Desist Order WR 2009-0060 dated October 20, 2009 (as amended); MPWMD Ordinance No. 165 adopted August 17, 2015; staff agenda package prepared for MPWMD Board of Directors Public Hearing on August 17, 2015 (Item 14).

2. **FINDING:** This application applies to the Malpaso WDS and the “main” Cal-Am system within CAW’s Monterey Division, with emphasis on Wells that derive supply from the CVAA. CAW production from the CVAA is the subject of several actions by the SWRCB, including Order WR 95-10 (as amended) and Order WR 2009-0060 (as amended).

EVIDENCE: Permit application materials specified in Finding #1; map of CAW Service Area. SWRCB Order WR 95-10 (July 1995 as amended); SWRCB Order WR 2009-0060 (October 2009 as amended).

3. **FINDING:** No new CAW facilities will be constructed as the result of service by Malpaso and its single master connection into the CAW system. The Malpaso-owned Eastwood/Cañada Well has been permitted by the Monterey County Environmental Health Bureau (MCEHB) but has yet

to be constructed. It will be used for diversions under License 13868A for municipal purposes in compliance with SWRCB, Division of Drinking Water (DDW) regulations. However, the CAW-owned Rancho Cañada Well 2, Cypress Well 2 and Pearce Well may be used to divert water under License 13868A for municipal purposes when the Eastwood/Cañada Well is not available for diversion: (a) during the first year after issuance of License 13868A before the Eastwood/Cañada Well is completed, (b) due to routine maintenance, or (c) due to an emergency outage.

EVIDENCE: Permit application materials specified in Finding #1, including SWRCB Division of Water Rights Decision 2015-0001 and License 13868A (Condition #14) dated July 3, 2015. MCEHB Well Construction Permit #15-12547 (in progress as of 8/11/2015).

4. FINDING: The co-Applicants have applied for a Permit to amend the CAW WDS to enable CAW to deliver up to 80.0 AFY metered sales based on Malpaso's 85.6 AFY water right (Well production) under License 13868A to serve future unspecified properties located within the CAW service area, in compliance with SWRCB License 13868A, MPWMD Ordinance No. 165 and agreements between CAW and Eastwood.

EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #M15-05-L3, Conditions of Approval #1 through #4, and #13; MPWMD Permit #M15-05-L3, Conditions of Approval #1 through #4, and #13.

5. FINDING: Approval of the subject application to create the Malpaso WDS or for the CAW/Malpaso Amendment does not change the current System Limits for the CAW main system.

EVIDENCE: Permit application materials specified in Finding #1. MPWMD Permit #M15-05-L3, Condition of Approval #3.

6. FINDING: The application to create the Malpaso WDS and for the CAW/Malpaso Amendment, along with supporting materials, is in accordance with District Rule 21 and Rule 22.

EVIDENCE: Permit application materials specified in Finding #1; "Notice of Public Hearing" letter to CAW and Malpaso from MPWMD dated August 3, 2015; MPWMD Rules and Regulations.

Required Findings (MPWMD Rule 22-B)

7. FINDING: The approval of the subject application would not cause unnecessary duplication of Potable water service within any existing system due to current constraints on the CAW WDS imposed by the SWRCB, and the

desire to enhance CAW compliance with the Cease and Desist Order. SWRCB License 13868A will allow CAW to distribute Malpaso water to unspecified recipient properties located within the CAW Service Area. [Rule 22-B-1]

Creation of the Malpaso WDS and the CAW/Malpaso Amendment will help reduce unauthorized CAW diversions from the Carmel River in the near term as CAW develops a replacement water supply project. Pursuant to License 13868A, at least the following amounts of water will be available to CAW for the purpose of reducing CAW's unauthorized diversions identified in SWRCB Orders WR 95-10 and WR 2009-0060:

- a. All water diverted under License 13868A for municipal use between July 3, 2015 and December 31, 2015;
- b. 50 AFY between January 1, 2016 and December 31, 2016;
- c. 25 AFY between January 1, 2017 and December 31, 2017.

EVIDENCE: Permit application materials specified in Finding #1, including SWRCB Division of Water Rights Decision 2015-0001 and License 13868A (Condition #6) dated July 3, 2015; and *Water Conveyance and Temporary Use Agreement* between CAW and Eastwood dated April 27, 2015. MPWMD Permit #M15-04-L3, Condition of Approval #1; MPWMD Permit #M15-05-L3, Condition of Approval #1.

8. FINDING: The approval of the subject application would not result in water importation or exportation to or from the District, respectively. The referenced water systems are located wholly within the MPWMD. [Rule 22-B-2]

EVIDENCE: District boundary location maps.

9. FINDING: Approval of the subject application would not result in significant adverse impacts to "Sensitive Environmental Receptors" (SER) as defined by MPWMD Rule 11, including the Carmel Valley Alluvial Aquifer. This finding is based on the Final EIR on the *Eastwood/Odello Water Right Change Petition* certified by the SWRCB in July 2015, which determined that the Project will not have a significant effect on the environment. The Final EIR included adequate responses to MPWMD's December 2014 comment letter, and MPWMD concurs with the SWRCB's conclusions. [Rule 22-B-3]

EVIDENCE: Permit application materials and environmental review documents specified in Finding #1, including Draft EIR for *Eastwood/Odello Water Right Change Petition*, SCH #2014031008, dated October 2014;

Final EIR for *Eastwood/Odello Water Right Change Petition* dated June 2015, including Responses to Comments; SWRCB certification of Final EIR dated July 3, 2015; SWRCB Notice of Determination for Approval of the Project dated July 7, 2015. MPWMD comment letter on Draft EIR dated December 15, 2014. MPWMD Permit #M15-05-L3, Condition of Approval #3; MPWMD Notice of Determination for Approval of CAW/Malpasos Amendment dated August [REDACTED], 2015, based on Board approval on August 17, 2015.

10. FINDING: The co-Applicants have demonstrated the right to deliver water to subscribers from the Wells identified in Finding #3 via the CAW distribution network as specified in SWRCB License 13868A. In addition, the SWRCB has confirmed that the CAW/Malpasos Amendment is not barred by its Order WR 95-10 or the ordering conditions of Cease and Desist Order WR 2009-0060. Specifically, the SWRCB determined that: (1) the Malpasos sale of water to subscribers for new connections and/or intensification of water use, and the distribution of such water by CAW is not barred by the CDO; and (2) the substantial amount of water for municipal use that will be made available under License 13868A to offset unlawful diversions by CAW during the first three years after approval of said License is consistent with the public interest. [Rule 22-B-4]

EVIDENCE: Permit application materials specified in Finding #1, including SWRCB, Division of Water Rights Decision 2015-0001 (Section 8.0), and SWRCB License 13868A dated July 3, 2015.

11. FINDING: The application demonstrates existence of a long-term reliable source of water supply for the proposed diversion (wellhead production) of up to 85.6 AFY, which enables delivery of up to 80.0 AFY metered sales into the CAW system. CAW Wells allowed by SWRCB License 13868A have an established production history. The proposed Eastwood/Cañada Well has not been constructed, but successful completion is anticipated due to its alluvial location. [Rule 22-B-5]

EVIDENCE: Permit application materials specified in Finding #1, including SWRCB, Division of Water Rights Decision 2015-0001; SWRCB License 13868A dated July 3, 2015; *Water Conveyance and Temporary Use Agreement* between CAW and Eastwood dated April 27, 2015; Draft and Final EIR for Eastwood/Odello Water Right Change Petition. MPWMD hydrogeologic reports and database files for alluvial Wells. MPWMD Permit #M15-04-L3, Special Condition of Approval #27.

12. FINDING: The Source of Supply for the Malpasos WDS and CAW/Malpasos Amendment is the Carmel Valley Alluvial Aquifer, which is shared by other WDS. Diversion is allowed solely through the authorized Wells identified in SWRCB License 13868A, consistent with the terms of

said License. The cumulative effects of issuance of this Permit is not expected to result in significant adverse impacts to the Source of Supply or the species and habitats dependent on the Source of Supply, especially when the 46.2 AFY amount targeted for instream benefit from SWRCB License 13868B is considered. [Rule 22-B-6]

EVIDENCE: Permit application materials specified in Finding #1, including SWRCB, Division of Water Rights Decision 2015-0001; SWRCB License 13868A dated July 3, 2015; SWRCB License 13868B dated July 3, 2015; Draft and Final EIR for the *Eastwood/Odello Water Right Change Petition* certified by SWRCB on July 3, 2015. MPWMD Permit #M15-04-L3, Conditions of Approval #1 through #4; MPWMD Permit #M15-05-L3, Conditions of Approval #1 through #4.

13. FINDING: The Source of Supply for the Malpaso WDS and CAW/Malpaso Amendment is derived from the Carmel Valley Alluvial Aquifer, which is a component of the Monterey Peninsula Water Resource System. The CVAA are waters within the jurisdiction of the SWRCB, which has granted water rights to Malpaso to divert waters via alluvial Wells pursuant to License 13868A. [Rule 22-B-7]

EVIDENCE: MPWMD hydrogeologic maps showing boundaries of project area and jurisdiction of the SWRCB; Permit application materials specified in Finding #1, including SWRCB, Division of Water Rights Decision 2015-0001 and SWRCB License 13868A, dated July 3, 2015.

14. FINDING: MPWMD Permits #M15-04-L3 and #M15-05-L3 allow a permanent intertie from the Malpaso WDS to the CAW WDS in compliance with SWRCB License 13868A, which also specifies recipient Parcels which may subscribe to Malpaso water. MPWMD Ordinance No. 165 specifies the process by which Malpaso subscribers (Benefitted Properties) may receive water. No interties to any other WDS are allowed. Fire flow is already provided by CAW to properties within its service area, and any CAW Source of Supply may be used in a fire emergency. [Rule 22-B-8]

EVIDENCE: Permit application materials specified in Finding #1, including SWRCB License 13868A dated July 3, 2015. MPWMD Permit #M15-04-L3, Conditions of Approval #1 through #4, and #13; MPWMD Permit #M15-05-L3, Conditions of Approval #1 through #4, and #13.

15. FINDING: A back-flow protection device to prevent contamination of the CAW system is not necessary as CAW will treat water from the Eastwood/Cañada Well prior to distribution to customers. The CAW system is regulated by the SWRCB, Division of Drinking Water. [Rule 22-B-9]

EVIDENCE: Permit application materials specified in Finding #1. MPWMD Permit

#M15-04-L3, Condition of Approval #14; MPWMD Permit #M15-05-L3, Condition of Approval #14.

Minimum Standards for Granting a Permit (MPWMD Rule 22-C)

16. FINDING: The application adequately identifies the Responsible Party for MPWMD Permit #M15-04-L3 as Malpasos Water Company, LLC, a California limited liability company, and the Responsible Party for MPWMD Permit #M15-05-L3 as California-American Water Company, a California Corporation. [Rule 22-C-1]

EVIDENCE: Permit application materials specified in Finding #1.

17. FINDING: The application meets the definition of a “Multiple-Parcel Connection System” as Malpasos water will be provided by CAW, a regulated Public Utility, to future recipient properties (Malpasos subscribers) for land uses as allowed by local jurisdictions. In the interim, Malpasos water rights will be used to offset some of CAW’s existing unauthorized diversions for its existing customers pursuant to SWRCB License 13868A, Condition #6. Compliance with California Title 22 water quality standards is the authority of the SWRCB, Division of Drinking Water. [Rule 22-C-2]

EVIDENCE: Permit application specified in Finding #1, including SWRCB License 13868A dated July 3, 2015. MPWMD Permit #M15-04-L3, Conditions of Approval #1, #2, #3, #15 and #17. MPWMD Permit #M15-05-L3, Conditions of Approval #1, #2, #3, #15 and #17. California Administrative Code, Title 22.

18. FINDING: The application identifies the location of the Source of Supply as the Eastwood/Cañada Well (and associated pipeline) or three CAW Wells (Cal-Am Rancho Cañada Well 2, Cypress Well 2, and Pearce Well), located within the Carmel Valley Alluvial Aquifer, as allowed by SWRCB License 13868A. [Rule 22-C-3]

EVIDENCE: Permit application materials specified in Finding #1; MPWMD Permit #M15-04-L3, Condition of Approval #4; MPWMD Permit #M15-05-L3, Condition of Approval #4.

19. FINDING: Approval of the application would not create an Overdraft or increase an existing Overdraft of a Groundwater basin. The Carmel Valley Alluvial Aquifer has not been declared as in overdraft, but the SWRCB has determined it is over-appropriated during certain seasons. Malpasos has demonstrated a water right under SWRCB License 13868A. [Rule 22-C-4]

EVIDENCE: Permit application materials specified in Finding #1, including

SWRCB, Division of Water Rights Decision 2015-0001 and SWRCB License 13868A dated July 3, 2015. MPWMD Permit #M15-04-L3, Conditions of Approval #1 through #4; MPWMD Permit #M15-05-L3, Conditions of Approval #1 through #4.

20. FINDING: The approval of the application would not adversely affect the ability of existing systems to provide water to Users due to conditions of approval by MPWMD and other entities that limit future water use to a reasonable and acceptable amount, consistent with certified environmental review documents. [Rule 22-C-5]

EVIDENCE: Permit application materials specified in Finding #1, including SWRCB, Division of Water Rights Decision 2015-0001 and SWRCB License 13868A dated July 3, 2015; Draft and Final EIR for *Eastwood/Odello Water Right Change Petition* certified by SWRCB on July 3, 2015. MPWMD Permit #M15-04-L3, Conditions of Approval #1 through #4; MPWMD Permit #M15-05-L3, Conditions of Approval #1 through #4. California Water Code.

Compliance with California Environmental Quality Act (CEQA)

21. FINDING: In the review of this application, MPWMD has followed the guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000 *et seq.* Specifically, the MPWMD, as a Responsible Agency under CEQA for this action, has complied with Guidelines Section 15096. The MPWMD, as a Responsible Agency for this project, has considered the Notice of Determination filed by the SWRCB on July 7, 2015 certifying the Final EIR for the *Eastwood/Odello Water Right Change Petition*, and all environmental documents associated with the project. Copies of the Draft EIR and Final EIR have been provided to MPWMD Board members for review prior to the public hearing on this matter. The MPWMD Board has reviewed the environmental information and relied on the information as part of its decision-making on this matter.

EVIDENCE: CEQA and CEQA Guidelines, Section 15096; Draft and Final EIR for *Eastwood/Odello Water Right Change Petition*, SCH #2014031008, certified by SWRCB dated July 3, 2015. SWRCB Notice of Determination for Approval of the Project dated July 7, 2015. MPWMD Notice of Determination for Approval of Permit #M15-04-L3 and Permit #M15-05-L3 dated August __, 2015, based on Board approval on August 17, 2015. Staff agenda package prepared for MPWMD Board of Directors Public Hearing (Item 14) on August 17, 2015; minutes of MPWMD Board of Directors Public Hearing (Item 14) conducted on August 17, 2015. MPWMD Permit #M15-04-L3, including all Conditions of Approval. MPWMD Permit #M15-05-L3, including all Conditions of Approval.

22. FINDING: Pursuant to CEQA Sections 15091 and 15092, the MPWMD Board finds that approval of the creation of the Malpasos WDS and CAW/Malpasos Amendment will not have a significant effect on the environment, based on the documentation cited in Finding #21. Mitigation measures are not made as conditions of approval by MPWMD for this action. The full record for all facets of the project is located in the offices of the State Water Resources Control Board, Division of Water Rights, 1001 "I" Street, 14th Floor, Sacramento, CA.

EVIDENCE: SWRCB certified environmental documents, certification and Notice of Determination described in Finding #21. MPWMD Notice of Determination for Approval of Permit #M15-05-L3 dated August __, 2015, based on Board approval on August 17, 2015.

23. FINDING: Pursuant to CEQA Section 15093, a Statement of Overriding Considerations was not adopted by the MPWMD Board for approval of MPWMD Permit #M15-05-L3.

EVIDENCE: MPWMD Notice of Determination for Approval of Permit #M15-05-L3 dated August __, 2015, based on Board approval on August 17, 2015.

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