



EXHIBIT 14-E

**CONDITIONS OF APPROVAL
for
APPLICATION TO CREATE MALPASO
WATER DISTRIBUTION SYSTEM
APPLICATION #WDS-20150715MAL; PERMIT #M15-04-L3**

**Permittee: Malpas Water Company, LLC
Permitted System: "Malpas" Water Distribution System
Service Area: One Master Connection to California-American Water
Company at Parcel APN 015-162-038, and redistributed in compliance with
SWRCB License 13868A dated July 3, 2015**

**Adopted by the MPWMD Board on August 17, 2015
Pursuant to MPWMD Rule 22-D and Ordinance No. 165
Preparation Date: August __, 2015**

Permitted System (Required by MPWMD Rules)

1. The Malpas Water Distribution System (WDS), the "Permitted System," is authorized by the Monterey Peninsula Water Management District (MPWMD or District) under Permit #M15-04-L3 to serve all Parcels within the Permitted System, consistent with water rights issued to the Malpas Water Company, LLC (Malpas) as specified in State Water Resources Control Board (SWRCB), Division of Water Rights, Division Decision 2015-0001 and License 13868A, dated July 3, 2015. Malpas and California-American Water Company (CAW) and have entered into agreements whereby Malpas water produced from the future "Eastwood/Cañada Well" on Assessor's Parcel Number (APN) 015-162-038 located at 5258 Carmel Valley Road, Carmel (map shown as **Attachment 1**) will be treated and delivered by CAW to Malpas subscriber Parcels located within the CAW Service Area as allowed by SWRCB License 13868A. To receive Malpas water, subscribers must also be located within the Carmel River Watershed and/or the City of Carmel-by-the-Sea, as shown in **Attachment 2**. The potential number of Parcels is too lengthy to individually list herein, and is addressed in Special Condition #28. This Permit incorporates SWRCB License 13868A (Condition #6), which allows remaining supply unused by Malpas subscribers to offset unauthorized CAW production from the Carmel Valley Alluvial Aquifer, and directs CAW to deliver specified amounts of water from this source to its municipal customers in calendar years 2015, 2016 and 2017. [Rule 22-D-1-a]

2. This Permit authorizes the Permitted System to provide raw water to the CAW WDS, which will treat and deliver municipal supply for residential, commercial, industrial and other land uses allowed by local jurisdictions in the CAW Service Area identified in Condition #1, as allowed by the Conditions of Approval listed in this Permit #M15-04-L3, MPWMD Permit #M15-05-L3 issued to CAW, SWRCB License 13868A, and MPWMD Ordinance No. 165. [Rule 22-D-1-b]
3. The System Capacity (wellhead water production limit) for the Permitted System is 85.6 Acre-Feet per Year (AFY) pursuant to SWRCB License 13868A, which uses a Calendar year (January 1 through December 31); the Expansion Capacity Limit (Connection limit) is one master Connection to the CAW system at Parcel APN 015-162-038. Malpaso service for new or intensified uses within its Service Area shall also comply with the Conditions of Approval specified in MPWMD Permit #M15-05-L3 issued to CAW (CAW/Malpaso Amendment), provided as **Attachment 3**. Pursuant to MPWMD Ordinance No. 165 that created a new MPWMD Rule 23.7 and amended other existing Rules, a new Water Entitlement of 80.0 AFY metered sales to Malpaso/CAW customers may be delivered by CAW to Malpaso's Benefitted Properties within the CAW Service Area as described in Condition #1. The 80.0 AFY Water Entitlement reflects conveyance losses of approximately seven percent (7%) from the 85.6 AFY wellhead production allowed by License 13868A. The District shall separately track Water Use Permit and Water Permit issuance associated with the 80.0 AFY. Existing municipal unit (jurisdiction) water allocations or credits are not changed by this Permit. [Rule 22-D-1]
4. The Source of Supply for the Permitted System is Malpaso's proposed "Eastwood/Cañada Well" (Monterey County Environmental Health Bureau Well Construction Permit #15-12547, in progress) to be constructed on CAW property (Parcel APN 015-162-038). Once constructed, the Eastwood/Cañada Well will deliver raw water into the CAW system via a short pipeline. This Permit incorporates SWRCB License 13868A (Condition #14), which allows use of three existing CAW Wells (Rancho Cañada Well 2, Cypress Well 2 and Pearce Well) to deliver water associated with License 13868A under specific circumstances. [Rule 22-C-3]

Mandatory Conditions of Approval (MPWMD Rule 22)

5. Precedent to use of this Permit, Permittee shall first obtain and comply with the requirements and conditions of Permits and Licenses issued by the SWRCB, California Public Utilities Commission (CPUC), State and/or County Health authorities, and other agencies with jurisdiction, as applicable. The District recognizes the SWRCB, Division of Water Rights, determination in Division Decision 2015-001 that sale of Malpaso water to subscribers and delivery via the CAW WDS is not barred by the SWRCB Cease and Desist Order 2009-0060 (as amended), and Malpaso water made available to CAW to reduce unauthorized diversions from CAW Wells in the Carmel Valley Alluvial Aquifer is consistent with the public interest. [Rule 22-D-1-c and Rule 22-D-3]
6. Permittee shall execute an Indemnification Agreement, provided separately, which holds

MPWMD harmless, and promises to defend MPWMD from any claims, demands, or expenses of any nature or kind arising from, or in any way related to, the District approval of the Permitted System or the adequacy of the system water supply. This Permit is not valid until the Indemnification Agreement is signed both by Permittee and MPWMD. The Indemnification Agreement must be signed and executed within 60 days of the preparation date shown (see top of page 1 for this Permit to remain valid. [Rule 22-D-1-d]

7. Permittee shall comply with MPWMD Rules relating to water Well registration, metering and annual reporting of production (MPWMD Rules 52 and 54) for any Well owned or operated by the Permittee that is located within the Service Area identified in Condition #1. This includes Malpasos "Eastwood/Cañada Well," which will be operated by CAW. [Rule 22-D-1-e; Rule 22-D-2]
8. Permittee, in coordination with CAW, shall report production by the Water Meter Method (MPWMD Rule 56) for the Well designated in Condition #4 and #7. The reporting year is October 1 through September 30 of the next year ("Water Year"). Permittee, in coordination with CAW, shall provide monthly reports of water production that identify Well production on a daily basis. Permittee shall also provide monthly Well data as described in Special Condition #30. [Rule 22-D-2]
9. Malpasos Benefitted Properties served by CAW shall comply with all MPWMD water conservation rules and regulations that pertain to CAW customers as applicable (e.g., commercial, hotel, residential, landscape) in compliance with MPWMD Ordinance No. 165. Current ordinances specify maximum water use rates for fixtures and require new development to install drought resistant landscapes, and drip irrigation, where appropriate. Contact with the District Permit and Conservation Office at 831/658-5601 is recommended during project planning. [Rule 22-D-1-f]
10. No new Connections to the Permitted System may be set until a Water Permit has been secured from MPWMD for each individual Connection in accordance with MPWMD regulations governing issuance of Water Permits, including the process outlined in MPWMD Ordinance No. 165. Capacity Fees (Connection Charges) shall be calculated based on water demand estimates using MPWMD's water demand methodology at the time of the application. [Rule 22-D-1-g]
11. Any intensification or expansion within the Permitted System shall require a new application and Permit pursuant to MPWMD Rules 23 and 24. [Rule 22-D-1-k]
12. Any new facilities, expansion of Service Area boundaries, changed conditions regarding water service by other entities, increase in the production or Connection limits set in Condition #3, or other changes described in MPWMD Rule 22-E shall require a Permit to amend the Permitted System. [Rule 22-E]
13. A permanent intertie between the Permitted System (Eastwood/Cañada Well) and the CAW WDS is allowed pursuant to the limits set in Condition #3 of this Permit. The

Benefitted Properties as defined by MPWMD Ordinance No. 165 are within the CAW Service Area and may receive CAW water for emergency fire service. [Rule 22-D-1-h]

14. A back-flow protection device to prevent contamination of the CAW system is not required as the Benefitted Properties will be served by CAW. However, if use of non-CAW Wells on the Benefitted Properties is contemplated, CAW and the Parcel owners must take appropriate action to ensure that the CAW system would not be contaminated. [Rule 22-D-1-h]
15. Because the Permitted System will provide raw water to a regulated Public Utility, compliance with California Title 22 drinking water standards is already required and regulated by the SWRCB, Division of Drinking Water. [Rule 22-C-2]
16. No additional mitigation measures to offset adverse environmental impacts are required by this Permit above and beyond those already specified in approvals by the State Water Resources Control Board, or other regulatory agencies with authority. [Rule 22-D-1-i]
17. Permittee is required to provide an agreement to enable CAW to serve Malpaso water to the subscriber Parcels. Permittee has provided an executed Lease Agreement dated June 1, 2015, which attaches a signed Water Conveyance and Temporary Use Agreement dated April 27, 2015 regarding the 85.6 AFY to be diverted under SWRCB License 13868A. [Rule 22-D-1-j]
18. Upon MPWMD Board approval of this Permit, the Permittee and CAW shall pay to MPWMD the invoiced cost for MPWMD staff, attorney and consultant time spent to process the Permit subsequent to the Application date, as well as direct costs (Rule 60). The initial Application fee paid by Permittee is compared to total costs. The Permittee shall be provided documentation to support the invoiced amount. This Permit is not valid until payment for the invoiced amount is received by MPWMD. The payment must be received within 60 days of the preparation date (see top of page 1) for this Permit to remain valid. [Rule 22-D-1-l]
19. Upon finalization of these conditions, Permittee shall sign and notarize an Acceptance of Permit Conditions Form associated with the approval of the Permitted System. By signing the form, Permittee acknowledges that Permittee understands and accepts these conditions as a binding part of the Permit approval, and agrees to carry them out faithfully. The Acceptance Form must be received within 60 days of the preparation date (see top of page 1) for this Permit to remain valid. [Rule 22-D-1-m]
20. Permittee shall disclose to any future owner, successors and assigns of the Malpaso WDS the requirements for the Permitted System associated with this Permit. MPWMD shall be advised in a timely manner of any changes in system ownership, system name or other substantive changes to the system to facilitate accurate record-keeping. [Rule 22-D-2]
21. Given the unique nature of the Malpaso WDS and CAW/Malpaso Amendment, and that the CAW system infrastructure is already in place in the Carmel River Basin, this Permit

does not include deadlines associated with the construction of new water facilities needed to serve future Benefitted Properties or other CAW customers. [Rule 22-D-4]

22. Because CAW is the Owner of the Parcel on which the future Eastwood/Cañada Well is located, Permittee shall execute a Notice of Agreement (rather than a Deed Restriction) prepared separately by MPWMD regarding the limitation on water use as set forth in these conditions. Permittee shall pay all fees associated with preparation, review and recording of the Notice of Agreement. The Notice of Agreement must be signed and notarized by the Permittee and accepted by the Monterey County Recorder for processing within 60 days of the preparation date (see top of page 1) for this Permit to remain valid. [Rule 22-D-1-n]
23. Upon notice to the Permittee in writing, e-mail or by telephone, the Permittee shall allow reasonable access to the Permitted System, including the Eastwood/Cañada Well on Parcel APN 015-162-038, by MPWMD staff or its designated representative to inspect and document Water-Gathering Facilities and Water Measuring Devices, obtain hydrogeologic data, and take readings from Water Measuring Devices. [Rule 22-D-1-o]
24. The Permit granted herein is subject to revocation in the event the Permittee does not fully comply with each and every condition set forth in this Permit. [Rule 22-D-1-p]

Other Standard Conditions of Approval

25. Nothing in this Permit shall be construed to grant or confirm any water right. The District recognizes the Malpaso water right License 13868A issued by the SWRCB.
26. This Permit does not authorize any act that results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). If a “take” will result from any act authorized under this Permit, the Permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this Permit.

Special Conditions of Approval

27. Permittee shall provide at no charge a copy of the Monterey County Environmental Health Bureau Well Construction Permit #15-12547, California Department of Water Resources Well Completion Report, and related Well-testing results for the Eastwood/Cañada Well to the MPWMD Water Resources Division Manager (or designee) within 60 days of Well completion.
28. Permittee shall provide a database and/or list of Parcels within the CAW Service Area that meet the License 13868A criteria to be served with Malpaso water. This information shall be shared with MPWMD Water Demand Division Manager at no charge.

29. Permittee, in coordination with CAW, shall provide to the MPWMD Water Resources Division Manager (or designee) a copy of each report submitted to the State Water Resources Control Board in compliance with conditions under License 13868A. Notice of a designated website link is acceptable; if a website link is not available in the future, electronic or hard copies are acceptable.
30. For each Well specified in Condition #4, Permittee, in coordination with CAW, shall implement water accounting methods to track CAW production sources that identify: (a) the total amount of water produced (measured at wellheads identified in Condition #4) under the CAW/Malpasos Amendment, and (b) the amount of water produced under the CAW/Malpasos Amendment to offset unlawful CAW diversions. This information shall be provided monthly at no charge to the MPWMD Water Resources Division Manager (or designee).
31. For each Well specified in Condition #4, Permittee shall coordinate with CAW to monthly measure water levels in each Well, and report these data to the MPWMD Water Resources Division Manager (or designee) along with the monthly production report described in Condition #30.
32. A standard condition of approval for any Water Permit issued to the Owners of the Benefitted Properties as defined by MPWMD Ordinance No. 165 that receive a portion of the Malpasos Water Entitlement is a voluntary binding agreement ("Notice and Deed Restriction") to provide public access to water use data, upon request by MPWMD. Permittee shall provide to MPWMD any information authorized to be released in accordance with a Notice and Deed Restriction executed and recorded by a Benefitted Property Owner.

Attachments

- Attachment 1: Figure of CAW and Malpasos facilities on APN 015-162-038
- Attachment 2: Map of potential Malpasos subscribers within CAW Service Area as allowed by SWRCB License 13868A
- Attachment 3: Copy of CAW WDS Conditions of Approval (Permit #M15-05-L3)
[not recopied for August 17, 2015 agenda package to avoid duplication]

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