

Please **PRINT OR TYPE** all information. **Applications must be received within twenty-one (21) days after an appealable decision has been made pursuant to District Rule 70.** To be considered for an appeal hearing, please submit a completed application and include a non-refundable processing fee (\$250 for less than half acre-foot of water, \$500 for half - one acre-foot of water, and \$750 for more than one acre-foot of water, plus \$70.00 an hour for more than 10 hours of staff time); other information as necessary which may include 5 years of water records from purveyor. The Board will support or deny your appeal based on the pertinent information you have provided. Submission of an incomplete application may constitute grounds for denial of your request.


APPLICATION FOR APPEAL

APPLICANT INFORMATION

Applicant's Full Name: Alan Cleaves, Marc Cusenza and Jayme Fields
 Mailing Address: 147 and 148 Seafoam Avenue and 145 Spray Avenue
 City: Monterey State: CA Zip: 93940
 Phone Number(s): Work (⁸³¹ 402-8277) Home (⁸³¹ 375-7818)
 Name of Agent(s) to Represent Applicant: _____
 Mailing Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number(s): Work (____) Home (____)

PROPERTY INFORMATION

1. Full Name of Property Owner: Dale Hogan
 Mailing Address: 1512 Rockhaven Drive
 City: Modesto State: CA Zip: 95356
 Phone Number(s): Work (831) 621-4564 Home (____)
 2. Property Address: 150 Seafoam Avenue
 City: Monterey State: CA Zip: 93940
 3. Assessor's Parcel Number: 011-462-039
 4. Property Area: Acres: .10 Square Feet: _____ Other: _____
 5. Past Land Use: vacant
 6. Present Land Use: vacant
 7. Proposed Land Use: residential
- Existing buildings? Yes _____ No _____
 Types of uses and square footage: 1748 sq single family home

7-5-2018
 PCL
 \$250.00


email marccusenza@yahoo.com

STATEMENT OF APPEAL REQUEST

**If additional space is needed for response to any question, please continue on a separate piece of paper and attach it to the back of this application.*

1. From which rule(s) or staff's decision(s) are you requesting an appeal?

see attached

2. Do you feel the rule or staff's decision is applicable in most cases, or do you believe it should be revoked or changed?

see attached

3. What were the circumstances surrounding your decision to appeal?

see attached

4. Please state the special circumstances that distinguish your application from all others which are subject to enforcement of this process.

see attached

5. What difficulties or hardships would result if your appeal request is denied?

see attached

6. What specific action are you requesting that the Board take?

see attached

7. Please indicate if you intend to make a statement at the appeal hearing, and list the names of any other individuals who may speak on your behalf.

see attached

APPLICATION FOR APPEAL

EXHIBIT 2

PROJECT INFORMATION

*If additional space is needed for response to any questions, please continue on a separate piece of paper and attach it to the back of this application.

- 1. Type of Project: [check] New Construction [] Remodel/Addition
2. Proposed New Use: (Please refer to the District's current Fixture Unit/Use Category sheet for assistance with this question.)

Residential: No. Dwellings [1] Total No. Fixture Units (Residential Only) [9.1]
Commercial/Industrial/Governmental: Type of Use: [n/a] Square Footage: []
Other (Specify): [n/a]

3. Current Zoning Classification: R1

4. Name of the water company which services the property: California American Water

5. Do you feel this project will use less water than that calculated by the District? If so, please explain how much you believe the project will use, and the basis on which you make this assumption. [no]

6. Has this project been approved by the local jurisdiction? If so, please list or attach a copy of all conditions which have been imposed on the project. (Attach a copy of these conditions and approvals received.) [n/a]

7. Does the applicant intend to obtain a municipal or county building permit for the project within ninety (90) days following the granting of a water connection permit? If not, when will water be needed at the site? [n/a]

I declare under penalty of perjury that the information in the application and on accompanying attachments is correct to the best of my knowledge and belief.

[Signature]
Signature of Applicant

[Date/Location]
Date/Location

NOTE TO APPLICANT: You may attach written findings for the Board to review and consider in support of the action you have requested.



1. From which rule(s) or staff decisions(s) are you requesting an appeal?

We are appealing staff's issuance of a water permit under Rule 21B. We believe that a water permit should not be granted, as there is not sufficient water for the project.

2. Do you feel the rule or staff's decision is applicable in most cases..?

This is a highly unusual and complex case.

3. What are the circumstances surrounding your decision to appeal?

The residential project at 150 Seafoam Avenue has been granted water via a submeter from 149 Spray Avenue and based on a fraudulently obtained water credit from the removal of fixtures from the home on 149 Spray. In fact and as documented by the prior owner and the appraiser who inspected the property, the applicant illegally added three additional showerheads to the upstairs bathroom, one additional showerhead to the downstairs bathroom, and a laundry sink after the applicant closed escrow on the property and before the MPWMD inspection. The applicant then submitted a water release form and water permit application 5 months later for a remodel that included the removal of these additional fixtures to obtain a water credit for a new house on 150 Seafoam. **Exhibit A.** Accordingly, the fixtures that the Hogans added after the transfer of ownership were improperly counted as historic water being utilized by the project.

The house is well known to the neighbors. It was an unimproved home, build in the mid-sixties. It's long-time resident, Robert Bullock, lived alone and donated the house and adjoining lot to create a scholarship fund at the local college upon his passing. In his final years, Mr. Bullock received professional assistance from Sandra Randazzo, CCF, NCG, CLPF, who had occasion to perform repairs to the home, including its bathrooms, and therefore knows their exact configuration and the numbers of fixtures that existed prior to selling the house to the Hogan Trust. She has confirmed that the extra shower fixtures and the laundry sink were not present. **Exhibit B.** Ms. Randazzo was the trustee for his estate and upon Mr. Bullock's passing and engaged Tom Lorz to establish the fair value of the property. Mr. Lorz performed extensive research, including meeting with representatives of the MPWMD and interviewing the caregivers who worked every day in the home, to determine the availability of water for the house and the adjoining lot. Through analysis of the property at that time, it was determined that sufficient water credits did not exist. Mr. Lorz has corroborated Ms. Randazzo's statement that the Hogan's added fixtures after the house was sold in order to secure a water credit for a house on the adjacent lot. **Exhibit C.**

In addition, photos from the MLS listing of the home confirm an unimproved shower. **Exhibit D.** Note that one side of the shower can be seen directly and the other is seen in the mirror. The picture may be fuzzy, but it clearly shows that there were not extra showerheads in the shower, as noted in the fixture count represented by Raini Hogan.

Based on all of these, as well as the neighbors who had occasion to examine the home at the time of sale, the fixtures being used to generate extra water credits in 149 Spray were not present when the Bullocks sold the property to the Hogan Trust and should not be counted in the determination of available water credits. Based on a correct count of the water credits present in the home at the time of sale, there are not sufficient credits available to be utilized in the new construction of a single family residence and the water permit issued to 150 Seafoam Avenue should be denied / revoked.

The appellants would have objected much sooner had they known of the Hogan's intentions to obtain a water permit based on water credits that were obtained from the illegal installation of water fixtures at 149 Spray. However, neither the appellant, nor any of the other neighbors to the property were provided notice of the Hogan's submittal of a water release form for the remodel or MPWMD's determination of a water credit for 149 Spray.

4. Please state the special circumstances that distinguish your application from all others which are subject to enforcement of this process.

Clear evidence of critical mistakes in the water credit process has been obtained from knowledgeable professionals. The Water District Board itself has legislated the end of water credit usage in this way. Taken individually or together, the circumstances dictate immediate action from the Board to deny the water permit.

5. What difficulties or hardships would result if your appeal request is denied?

If the water permit were allowed to stand, a brand new home would be added to the already constrained water resources of the Peninsula, consuming a full new house worth of water. This happens at a time when other residents continue to sit on the water waiting list for years. Further, discussion has spread throughout the community about the manipulation which took place to achieve the credits and the apparent acceptance of it by the enforcing District. The District's reputation for water saving and enforcement would be greatly and negatively impacted for years to come should this project be allowed to proceed.

6. What specific action are you requesting that the Board take?

Rule 25(C) provides that the District Board may revoke any water permit issued pursuant to these Rules whenever it finds that "the property owner or permit applicant has misrepresented intentionally or negligently any material fact in the Water Permit application or in any supporting documents." This provision would undoubtedly allow the Board to deny a water permit based on the fraudulent procurement of a water credit.

As documented above and in the attached letters supporting this appeal, the Board should grant the appeal and deny issuance of the water permit, which was issued based on an intentional

misrepresentation of the fixture count that existed at 149 Seafoam at the time the property was transferred from the Bullocks to the Hogan Trust. The Hogans fraudulently added additional showerheads and a laundry sink after the close of escrow and before the MPWMD inspection to ensure that sufficient water credits would be available for a new house on the adjacent vacant lot. Surely, the Bullock's and or their agent would not have sold the property for \$712,500 if they had sufficient water credits to build on the adjacent vacant lot, which would have significantly increased the value of the property.

We further note that the Hogans scheme to add a new home on this vacant could only occur by installing a new submeter at 149 Spray because Cal-Am is prohibited from installing a new mater at 150 Seafoam due to the existing Cease and Desist Order. The Hogans secured their water permit several days before the District's changes to its submetering rules in Rule 23, which were never intended to allow a submeter in order to transfer water credits to adjacent legal lot for residential development, became effective. The District Board appropriately closed this "loophole" when it adopted Ordinance 170.

We request that the Board grant the appeal and deny the water permit to establish a clear precedent that the Board will not tolerate and issue water permits that are based on fraudulently procured water credits.

7. Please indicate if you intent to make a statement at the appeal hearing, and list the names of any others who may speak on your behalf.

Yes, the appellants will speak. Other neighbors, the above referenced professionals and members of the community may also wish to speak on this important issue.

Elmibit A1

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
5 HARRIS COURT, BLDG. G · P.O. BOX 85 · MONTEREY, CA 93942 · (831) 658-5601 · FAX (831) 644-9558 · www.mpwmd.net

INSPECTION REPORT

Conservation: Change of Title | Permits: Pre-Inspection/Credits New Construction Remodel/Addition Re-Inspection

PROPERTY ADDRESS: 149 SPRAY AVENUE

CITY: MONTEREY BATHROOMS: FULL 1 1/2 1 Other _____

ASSESSOR'S PARCEL NUMBER: 011 - 462 - 012 BUSINESS NAME: _____

OWNER'S NAME: BULLOCK PERSON CONTACTED: JOHN CAMINATI

USED AUX. _____ MFD NON-RES. (No. of Bldgs.) _____ MIXED USE

This form certifies that an inspection was conducted at the above address. At the time of the inspection, the property WAS WAS NOT found to be in compliance with MPWMD Water Efficiency Standards and/or with MPWMD Water Permit No. _____. Additionally, fees in the amount of _____ are PAID DUE. Water Efficiency Standards are listed in Regulation XIV of the District Rules and Regulations; see summary on the back of this form. (Specific Permit requirements are on file at the District office.)

Any discrepancies on fixture counts must be reported and cleared or appealed within 21 days of inspection date.

No Water Credits are available for outdoor water fixtures, multiple utility sinks, and multiple showerhead installations (Pursuant to District Rules 24 & 25.5)

WATER FIXTURE INVENTORY:

Name of fixture	Fixture Count	Remarks/Location	High Efficiency
Washbasin.....	1		<input type="checkbox"/>
Toilet... <u>KO.1.6-11</u>	1		<input type="checkbox"/>
Large Bathtub (over 55 gal.).....			
Standard Bathtub or Shower Stall (with one showerhead).....	1.15	1.5/1.5 GPM	
Additional Showerhead.....	1 III	1-DOWN STAIRS - 3N	1D STAIRS
Kitchen Sink/Dishwasher.....	1		<input type="checkbox"/>
Dishwasher, additional.....			<input type="checkbox"/>
Laundry Sink or Utility Sink* (1 per Residential Site).....	1		<input type="checkbox"/>
Clothes Washer. <u>FIXTURE</u>	1		<input type="checkbox"/>
Bidet.....			
Bar Sink/Vegetable Sink/Entertainment Sink.....			
Instant-Access Hot Water System.....	NO		<input type="checkbox"/>
Swimming Pool (square-feet of surface area).....			
Rain Sensor/Soil Sensor.....	N/A		
Rainwater Harvesting Capacity/Cistern Gallons.....			
Lawn Removal & Replacement: (square foot Area).....			
Graywater System (Roof Dimensions):.....			

* Credit is available for one utility sink only per Residential Site.

Inspector's Notes: SAUNA - GROUND FLOOR

ACTION REQUIRED

- Items not in compliance must be corrected within thirty (30) days.
- Re-inspection required. Please call 658-5601 to schedule. (Re-inspection Fees of \$105.00 are required prior to inspection.)
- Provide itemized receipts for Toilets, Showerheads or signed "Showerhead Certification of Installation" form; provide photos and receipts for Rain Sensor installation. Mail documents to P.O. Box 85, Monterey, CA 93942; or fax to 644-9558.
- Water Release Form & Water Permit Application Form required (Jurisdiction). Fees may be due. (Contact the District.)

Acknowledgment of Receipt 2/27/14 Date Michael Talis MPWMD Representative 2-27-14 Date

See Important Terms and Conditions on back of form. U:\demand\Work Forms\Inspection Reports\Inspection Report Revised 20130507.docx white copy applicant yellow copy - MPWMD

SUBMITTED BY APPLICANT

Exhibit A

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
RESIDENTIAL WATER RELEASE FORM AND WATER PERMIT APPLICATION

NOTE: When approved and signed by the jurisdiction, this form must be submitted with final and complete Construction Plans to:
Monterey Peninsula Water Management District Permit Office
5 Harris Court, Bldg. G ♦ Monterey, CA 93940 ♦ (831) 658-5601 ♦ www.mpwmd.net ♦ Fax (831) 644-9558
Completing the Water Release Form & Water Permit Application does not guarantee issuance of a Water Permit.

ALL SPACES BELOW MUST BE COMPLETED OR THE APPLICATION MAY NOT BE PROCESSED. (Please print firmly)

1. OWNERSHIP INFORMATION: RYAN HOGAN Admin TTEE 2. AGENT/REPRESENTATIVE INFORMATION:
Name: DALE RAY HOGAN Family Trust Name: Raini Hogan
Daytime telephone: Daytime telephone: 831-1021-4564
Mailing Address: 1512 Rockwood Dr, Moss Valley, CA 95056 Mailing Address: P.O. Box 1430, San Jose, CA 95155

3. PROPERTY INFORMATION:
What year was the house constructed? 1965 Existing Square-footage 1921 Proposed Square-footage 1858
Address: 149 SPRAY AVE Assessor Parcel Number 011-462-012
Is a water meter needed? (Circle one) YES NO If yes, how many meters are requested?
Water company serving parcel: CAL AM Account Number 49-52200-3658

NOTE: Separate water meters are required for each User. Residential uses require separate meters for all auxiliary housing that includes a kitchen.

4. PROJECT DESCRIPTION (Be thorough and detailed): REMODEL PORTION OF EXISTING HOUSE AND ADD ELECTRICAL AND PLUMBING. REPAIR & REPLACE EXISTING DOORS. REPLACE EXISTING WINDOWS & SLIDERS. CONVERT LOWER LEVEL HALLWAY TO EXISTING GARAGE.

5. INSTRUCTIONS: Table #1 should list the fixtures on the property as they exist before the project. Table #2 should reflect all fixtures on the property after the project is completed. Only one Master Bathroom can be designated per dwelling unit.

Table No. 1 Existing Property Fixture Count (All fixtures before project)
Table with columns: Type of Fixture, Fixtures, Value, Cost. Includes items like Washbasin, Toilets, Showers, Kitchen Sinks, Dishwashers, etc.

Table No. 2 Post Project Fixture Count (All fixtures after project)
Table with columns: Type of Fixture, Fixtures, Value, Cost. Includes items like Washbasins, Toilets, Showers, Kitchen Sinks, Dishwashers, etc.

EXISTING FIXTURE UNIT COUNT TOTAL = 23.6 / 19.6
PROPOSED FIXTURE UNIT COUNT TOTAL = 23.6 / 17

*DEED RESTRICTION REQUIRED WHEN CREDIT IS APPLIED FOR "HE" APPLIANCES - EXPECT PERMIT PROCESS TO TAKE THREE WEEKS

In completing the Water Release Form, the undersigned acknowledges that any discrepancy or mistake may cause rejection or delay in processing of the application. Additionally, the undersigned is responsible for accurately accounting for all water fixtures. If the fixture unit count changes without notification to the District, or if a difference in fixtures is documented upon official inspection, Water Permits for the property may be canceled.

6. I certify, under penalty of perjury, that the information provided on this Water Release Form & Water Permit Application is to my knowledge correct, and the information accurately reflects water use presently planned for this property.

Signature of Owner/Agent: RAINI HOGAN
Date: 7/14/2014
Location Where Signed: Monterey
File or Plan Check Number: 014-0219

AUTHORIZATION FOR WATER PERMIT - JURISDICTION USE ONLY
AF Paralta Allocation AF Public Credits AF Second Bathroom Protocol
AF Pre-Paralta Credits WDS (Private Well) Water Entitlement No water needed
Notes: Authorized by: Date: 7/14/14

This form expires one year from date of authorization for this project by the jurisdiction.
White copy-MPWMD Yellow copy-applicant Pink copy-jurisdiction

Exhibit B

Saundra L. Randazzo trustee
731 Junipero Avenue
Pacific Grove, CA 93950
831-373-3372 phone 831-641-0281 cell
sandydazzo@gmail.com

June 30, 2016

Monterey Peninsula Water Management District
5 Harris Court
Building G
Monterey, CA 93940

To whom it may concern:

RE: 149 Spray Avenue, Monterey, CA 93940

As trustee for the Robert Bullock Trust I am writing this letter to confirm existing water fixtures at 149 Spray Avenue, Monterey, CA prior to the sale of the property.

Mr. Bullock was under the care of Central Coast Senior Services and required help with most personal care needs 7 days a week. In addition to being his trustee I was also POA for finance and healthcare. I was very familiar with the house and the configuration of its fixtures as I was in the home several times a week.

Existing Fixtures at time of Sale:

Upstairs bathroom one showerhead no bathtub, one sink, one toilet.

Kitchen one sink one facet

Downstairs bathroom one showerhead and bathtub facet which did not work and I needed to have repaired before the sale of the property. Marks Plumbing and Sewer did the repair work. One sink, and one toilet.

Downstairs laundry closet one washer hook-up.

There was never a laundry sink anywhere on the property.

One outside facet exterior right side of property.

Two bathrooms only one upstairs and one downstairs

Any showerheads in excess of one per shower, and the laundry sink, that were counted for water credits were added after the purchase of the house and were not in the home before the sale of the property.

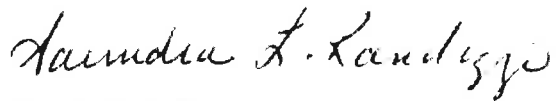
SUBMITTED BY APPLICANT

The property was appraised prior to the sale of the property which included a vacant lot. The appraisal was based on the fact there was **no water available to build on the vacant lot**. The home and lot were sold together based on this fact.

I would like to mention on behave of Robert Bullock Trust and MPC Foundation that Mr. Bullocks entire estate was left to MPC Foundation for scholarships. It would be very sad to think students would be deprived of scholarship money because someone was not honest.

I am positive the Water Management District will make the correct decision regarding this matter.

Thank you,

A handwritten signature in cursive script that reads "Sandra L. Randazzo".

Sandra L. Randazzo

Trustee for the Robert Bullock Trust.

SUBMITTED BY APPLICANT

Borrower	N/A						
Property Address	149 Spray Avenue						
City	Monterey	County	Monterey	State	CA	Zip Code	93940
Lender/Client	Marc S Cusenza	Address	148 Seafoam Avenue, Monterey, CA 93940				

Loorz & Company, Inc.
 Real Estate Appraisals
 realmarketvalue@comcast.net

2075 Cross Street
 Seaside CA 93955
 831-655-8845

July 1, 2016

Monterey Peninsula Water Management District

cc: Mr. Marc Cusenza

Re: 149 Spray Avenue & 0 Seafoam Avenue
 Monterey, CA 93940

To whom it may concern,

Pursuant to the request from Mr. Marc Cusenza for some information from a previous appraisal performed on the property I refer back to my cursory viewing of both the interior and exterior of the subject dwelling as of 08/15/2013. Let this letter serve notice of some of my recollections of certain observations that although may have been beyond the scope of my original engagement, may provide assistance in this matter. This letter has been prepared with the full understanding and consent of my client and is not intended to satisfy or mollify any additional request from my initial engagement.

On 08/15/2013, I preformed a cursory viewing of both the interior and exterior of the subject dwelling in the attendance of my client Saundra Randazzo CLPF. The general level of viewing of the subject property was typical and customary in the process of determining a "date of death" valuation for the real property the client's estate, however, no exact water credit fixture analysis was preformed, or was to be expected, within our agreed upon scope of work. I have reviewed my work file which pictures only one of the bathrooms, however, it did not garner any exact number of the quantity of fixtures in the shower stall. Per my recollection of my casual interior viewing of the subject dwelling I do not recall any extraordinary fixtures that were above and beyond normal/typical for bathrooms in homes in the area which normally consists of 1 shower head per stall. I have subsequently reviewed my sentiments with my client with both of our recollections vacant of any additional fixtures as would otherwise suit a single elderly gentlemen. On a secondary recollection and confirmation with the then owner's care giver, it appears that her day to day bathing of the client put her direct contact with the actual fixture count with her recollection being consistent with mine and Ms. Randazzo's.

I certify that all statements contained herein are true and that I am a State Certified Appraiser and that I possess all the requisite licensing, education and experience to perform written appraisal reports in the subject area and that I have no present or prospective interest in the properties that are the subject of these reports. I also certify that I have no personal interest or bias with respect to the parties involved, and that my compensation was not contingent upon the reporting of a predetermined value or direction in favor of the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

By acceptance of this letter, the client acknowledges that the appraiser is not obliged to give testimony or appear in court because he has provided material observations of the property in question unless specific arrangements to do so have been made beforehand. Any post consultation with the Client or Third Parties will be at an additional fee. If testimony or deposition is required due to subpoena, the client shall be responsible for any additional time, fees and charges regardless of issuing party. The client also acknowledges that use of this report constitutes acceptance of all conditions and assumptions stated herein.

If you should have any further questions do hesitate to call the office.

Respectfully,

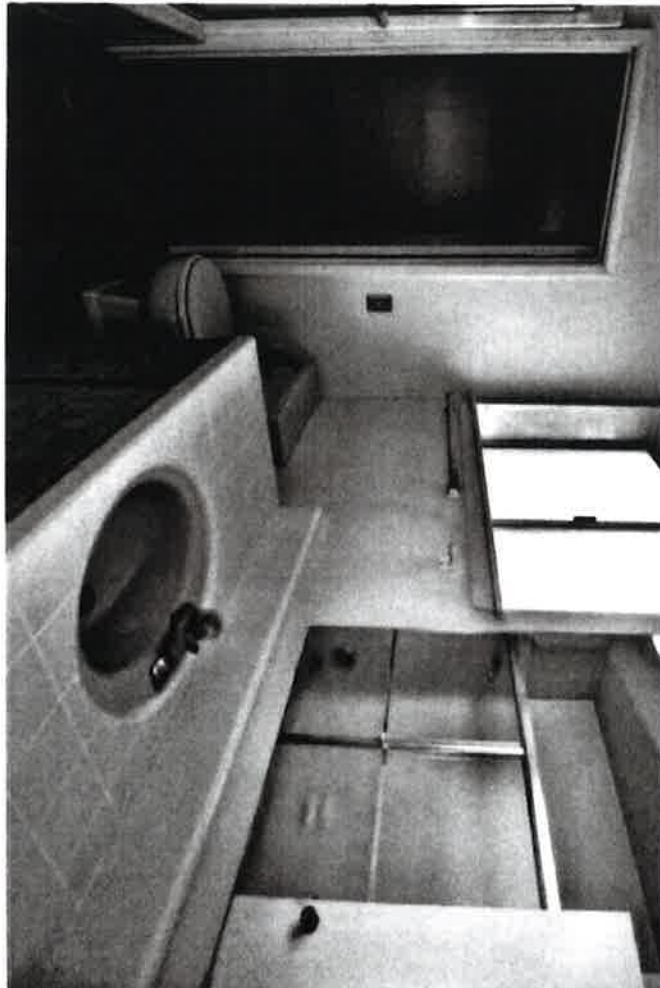
Tom Loorz
 California State Certified General
 Real Estate Appraiser #AG008051

Appraiser Name Thomas P. Loorz Supervisor Name _____

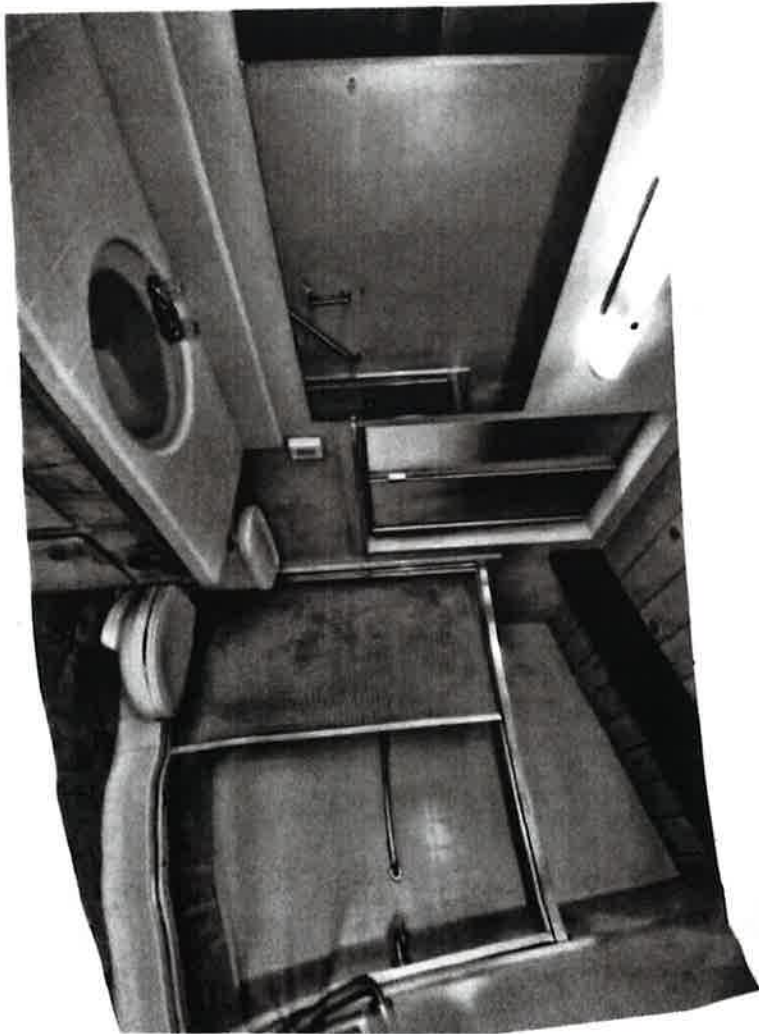
Exhibit D



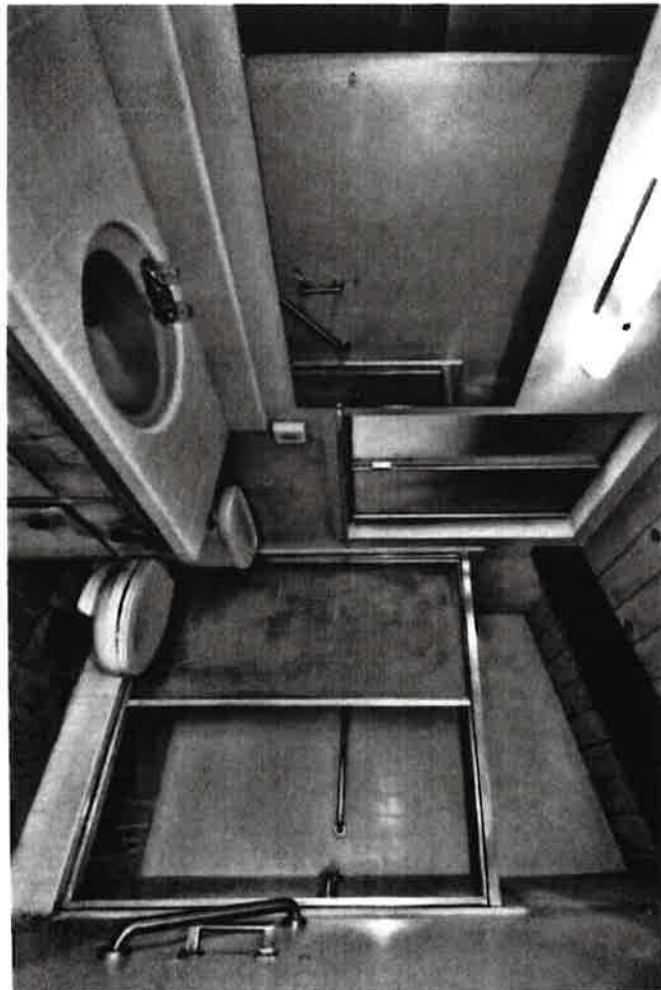
SUBMITTED BY APPLICANT



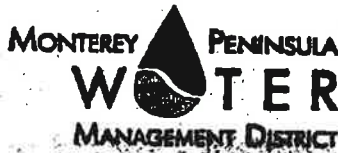
SUBMITTED BY APPLICANT



SUBMITTED BY APPLICANT



SUBMITTED BY APPLICANT



DISCLOSURE STATEMENT
(EX PARTE COMMUNICATIONS)

Name or description of project, action, etc.: 150 Seaboard Ave Monterey CA
93940

Names and addresses of all persons authorized to communicate with the Board of Directors on this matter:

Name	Address
<u>Max Cusenza</u>	<u>148 Seaboard Ave Monterey CA</u> 93940
<u>Alan Cleaves</u>	<u>145 Seaboard Ave Monterey CA</u> 93940
<u>Jayne Fields</u>	<u>147 Spray Ave Monterey CA</u> 93940

This Disclosure Statement is completed in my capacity as the Applicant for matter referenced in the first line, or as an authorized Agent of the Applicant. My signature evidences I am duly authorized to act on behalf of all individuals and/or entities that have an ownership interest in this matter (exceptions shall be noted by checking this box and providing a complete explanation as an attachment to this Disclosure Statement).

I understand this Disclosure Statement is required to list the names and addresses of all persons authorized to communicate with the Directors of the Water Management District on this matter. I further understand and agree to revise and amend this Disclosure Statement whenever any other person is authorized to communicate regarding this matter. Oral disclosure of agents shall not satisfy this requirement.

I understand and agree that failure to disclose the name of individuals who shall communicate with the District Board Members on behalf of the applicant shall subject the matter referenced above to immediate review and denial. Further, I understand that if denial is based on failure of either the applicant or of an authorized agent of the applicant to comply with these disclosure requirements, no request for approval of an identical or similar matter shall be granted for a period of twenty-four (24) months from the date this matter is denied.

I declare the foregoing to be true and correct of my own personal knowledge. I have signed this form this 8 day of July, 2016. This form is signed in the City of Monterey, State of California.

Max Cusenza
Name (print)

[Signature]
Signature

SUBMITTED BY APPLICANT