

EXHIBIT 11-A



October 30, 2020

Ron Stefani, Chair,
Board of Directors
Monterey One Water
5 Harris Court, Bldg D
Monterey, CA 93940

Re: Certification of Final Supplemental Environmental Impact Report (Final SEIR) for
Proposed Modifications to the Pure Water Monterey Groundwater Replenishment Project

Dear Chair Stefani:

The Monterey Peninsula Water Management District (MPWMD) and your agency have engaged in a lengthy and successful partnership to jointly conceive, execute and fund the Pure Water Monterey Project, including its potential expansion. Our collaboration has resulted in a series of contractual agreements, to include:

- 5/20/2013 MRWPCA-MPWMD Cost Sharing Agreement
- 7/25/2016 Amendment No. 1 to MRWPCA-MPWMD Cost Sharing Agreement
- 10/1/2017 Amendment No. 2 to MRWPCA-MPWMD Cost Sharing Agreement
- 6/13/2019 Amendment No. 3 to MRWPCA-MPWMD Cost Sharing Agreement

Our collaboration has recognized that your agency has assumed the role of lead agency under CEQA for this Project, and MPWMD has acted as a responsible agency.

Recently we expressed concern related to recent actions of your Board related to its review of the Pure Water Monterey Expansion Project Supplemental Environmental Impact Report (SEIR). Specifically, we stated our concern that your agency has not timely acted to certify the SEIR, and thus Monterey One Water cannot exercise its discretionary role as lead agency to formally consider the Pure Water Monterey Expansion Project.

Although CEQA Guidelines section 15052(a) describes circumstances by which a responsible agency “*shall* assume the role of the lead agency,” it does not contemplate or foreclose the possibility that a responsible agency such as MPWMD may assume a lead agency’s duties in other circumstances, such as those now extant, where Monterey One Water as lead agency ceases all activities with respect to the project.

MPWMD transmits this letter as your partner and co-sponsor of the Pure Water Monterey Expansion Project because your agency has refused to take definitive action to exercise discretion or finish its lead review of the SEIR; your agency thus is unable to make a decision to

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select or reject the project for which MPWMD has made considerable investments of time and public resources. MPWMD finds it has no alternative other than to assume the role of lead agency to continue discretionary review of the Pure Water Monterey Expansion Project, including consideration of the draft SEIR. In effect, this means MPWMD will step into Monterey One Water's shoes as lead agency, and that your agency shall assume the role of CEQA responsible agency.

MPWMD is mindful that at least one legal treatise raises the prospect of a change in lead agency, commenting "in certain situations the lead agency can change while the project is being considered. . . . Such a change in the lead agency's identity does not, in itself, require the successor lead agency to restart the CEQA review process."¹ Further, case law interpreting CEQA has recognized that the identity of the lead agency may change while the project is being considered.²

As lead agency, MPWMD intends to resume the CEQA review process on our joint Pure Water Monterey Expansion Project partnership. MPWMD will review and consider all prior certification efforts and will thereafter schedule a CEQA hearing for the SEIR in a reasonable timeframe. We will invite your agency to continue its review of the Pure Water Monterey Expansion Project as a responsible agency and intend to provide notices to you in that capacity.

We understand that your Board may take exception to our intended action, or even to formally dispute this circumstance. You are reminded CEQA authorizes the Governor's Office of Planning and Research (OPR) to designate the lead agency within 21 days of receiving a completed request for dispute resolution.³

Should your Board adopt a formal resolution to initiate the CEQA lead agency dispute process, preferably on or before your November 30, 2020 Board meeting, MPWMD will defer action on the certification question until OPR can address this matter.

We look forward to your consideration of our intended action.

Sincerely,

Board of Directors
Monterey Peninsula Water Management District

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¹ Kostka & Zischke, Practice Under the Cal. Environmental Quality Act § 3.8(e)

² *Gentry v City of Murrieta* (1995) 36 Cal.App.4th 1359

³ See Pub. Resources Code § 21165; CEQA Guidelines § 15053.