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WATER MANAGEMENT DISTRICT

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March 7, 2008 **also transmitted via e-mail and fax**

Jacqueline R. Onciano
Monterey County Resource Management Agency, Planning Dept.
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

Subject: MPWMD Comments on Draft EIR for the Rancho Cañada Village Subdivision, Carmel Valley; PLN040061, SCH#2006081150

Dear Ms. Onciano:

The Monterey Peninsula Water Management District (MPWMD or District) appreciates this opportunity to comment on the above-referenced document. The MPWMD is responsible for integrated water resources management for the Monterey Peninsula, including the project area. Several water-related permits from the District will be required for this project, as described below. The District and other Responsible Agencies will rely on the County's certified EIR for this project in order to comply with the California Environmental Quality Act (CEQA) as part of our decision-making process. Thus, the following comments are offered to ensure accuracy and completeness of the EIR in order to maximize its usefulness for MPWMD, particularly in light of the required Findings of Approval specified in MPWMD Rules & Regulations.

The District's comments below address two major topics:

- Riparian corridor of the Carmel River (includes hydrology, vegetation and the proposed grading and drainage plan), and
- Water supply (includes groundwater, production, estimated demand and water rights).

RIPARIAN CORRIDOR

General Comments

With potentially 200,000 cubic yards of material being removed in the area that is to become a habitat restoration project, a weed management program will need to be implemented to prevent weeds that prefer disturbed soils from out-competing the native plantings.

In Carmel Valley, it is the responsibility of property owners to maintain in good condition the riparian areas of their property. Historically, vegetation within the Carmel River riparian corridor has been planted and irrigated by Rancho Cañada Golf Course owners to offset the

impacts from groundwater extraction on and in the vicinity of the property. Irrigation and maintenance of the riparian corridor will need to continue, especially during times of reduced streamflow and lowered groundwater levels.

Specific Comments

Page ES-3, 5th bullet: "*use permit to allow development in the floodway and construction of a levee.*" Should the term "floodway" be replace by "100-year floodplain"?

Section 3.2, Regulatory Setting, Local Policies and Regulations: Please include a reference to MPWMD Rule 124 concerning Carmel River Management and Regulations requires property owners obtain a valid permit issued by MPWMD for any work within the riparian corridor, which is defined as within 25 lineal feet of the 10-year flood waterline defined by the Nolte and Associates analysis for the 1984 Flood Insurance Study for Monterey County. The following link describes MPWMD's Rules and Regulations regarding River Work Permits:
http://www.mpwmd.dst.ca.us/programs/river/CARMEL_RIVER_MGT_RULES.htm

Page 3.2-20, Impact HYD-2: Increase in Localized Velocities in the Carmel River: The "Preliminary Grading and Drainage Plan Vesting Tentative Map" proposes three new, large outfalls to be placed into the existing streamside corridor in the main stem of the Carmel River. The description of potential impacts from these new outfalls seems to presume a static channel bottom in the main stem. The project proponent should assess how proposed stormwater outfalls would function as the channel bottom aggrades and degrades over time in response to changes in sediment supply. Periodic thalweg surveys and photo monitoring indicate that the channel bottom can vary by up to four feet in as little as 10 years. Outfall structures could either be inundated by sediment or undermined by scour, depending on where outfalls are initially placed.

In addition, there does not appear to be an analysis or consideration of alternatives that would reduce the number of outfalls to the main stem. Why isn't runoff from the development collected into an open channel that simulates a tributary and conveyed to the river? This would reduce the potential for localized destabilization of the streambanks due to multiple outfalls.

Page 3.2-25, Para 1: This paragraph describes water quality impacts associated with increased runoff from the development. Planners should look at using pervious pavement and other techniques to promote infiltration.

Page 3.3-9, Para 2: The paragraph incorrectly describes Red Alder as a dominant species in the riparian forest and woodland. This should state that White Alder *Alnus rhombifolia* is one of the dominant species. MPWMD to date has not documented Red Alder in the Carmel River watershed.

Page 3.3-34, Impact BIO-4: Loss of Riparian Forest and Woodland Habitat (Less than Significant with Mitigation): This section does not consider the impacts from or alternatives to placement of three new piped storm drain outfalls into the Carmel River riparian corridor. Typical methods for installing large outfalls include laying trench slopes back at 1.5:1 (horizontal to vertical), which can result in temporary removal of a significant amount of

streambank material and permanent loss of riparian vegetation due to the structural components installed in the streambank to protect the outfall and surrounding area. The project proponent should consider alternative drainage designs that would reduce or eliminate the need for these outfalls. One possible alternative may be to create natural drainage ways that would simulate tributary flow into the main stem.

Page 3.3-34, Para 3: This paragraph states that 88 mature cottonwoods, 25 arroyo willows, and 2 western sycamores will be removed from intermittent drainages 1 and 2. It is unclear if these numbers also include cottonwoods and willows to be removed from the site that will have 200,000 cubic yards of material excavated. Mature cottonwoods on the floodplain are difficult trees to replicate. If at all possible, a minimum of 25 percent of these trees should be moved and transplanted to the new restoration site.

Page 3.3-36, Para 1, 1st full sentence: The text states: "*Planting will occur after construction of the residential development has been completed.*" The project should use riparian plants that are removed during construction for the revegetation effort. The contractor should transplant trees immediately after they have been removed so they will resprout under irrigation. If trees are left with roots exposed during a prolonged time they will not longer be useful for revegetation efforts later in the construction season.

Page 3.3-36, 3rd bullet: The text states: "*Plantings are self-sustaining without human support (e.g., weed control, rodent and deer control, irrigation).*" This is only one of the criteria for the revegetation project to be considered successful. The groundwater table in normal to dry years is annually drawn down below the root zone of riparian trees. Therefore, irrigation will be necessary as long as this condition continues.

Page 3.3-36, Mitigation Measure BIO-8: Monitor Bank Erosion in Project Reach and Restore Riparian Vegetation and River Bank if Disturbed Due to Increased Velocities: The project proponent proposes the following: "*Where bank erosion and/or riparian vegetation is identified as lost due to project-induced increase in velocities, the applicant shall obtain all required regulatory permits to restore disturbed banks and riparian vegetation.*" Although streambanks can fail solely due to an increase in velocity, disturbance of the streambanks can have other transient flow effects that are not well understood, even though the velocity component of flow might not change. For example, a change to flow patterns could affect debris and sediment flow and lead to streambank failure.

MPWMD recommends that the project proponent be made responsible for maintenance and restoration of all streambank areas that are potentially affected by the project, regardless of the failure mechanism.

WATER SUPPLY

General Comments

All Water Distribution Systems (WDS) within the District, ranging from large systems such as California American Water (CAW, referred to as "Cal-Am" in the EIR) to small systems such as

one well serving a single-family parcel, are regulated by MPWMD. The MPWMD requires a WDS permit to create or amend a WDS, and also requires a Water Permit to serve connections within a system, such as new homes to be constructed in a subdivision. A valid permit from MPWMD is needed before a Monterey County building permit is issued. All wells within the District boundary are regulated by MPWMD. Please refer to the MPWMD Rules & Regulations at: **http://www.mpwmd.dst.ca.us/rules/Dec2007/TOC.htm**

Notably, issuance of a permit to create or amend a WDS requires Findings of Approval supported by written evidence, compliance with minimum standards of approval, and mandatory Conditions of Approval, pursuant to MPWMD Rules 22-B, C and D. Put very simply, the applicant must show that the source of supply can reliably meet the water needs of the project, would not adversely impact existing systems, and would not adversely impact the environment. Wells within the Carmel Valley Alluvial Aquifer (CVAA) are subject to more stringent review due to federal and state Endangered Species Act issues. Wells within the CVAA must also demonstrate adequate water rights as the CVAA is within the jurisdiction of the State Water Resources Control Board (SWRCB).

Specific Comments

Page 2-10, Utilities, line 6-7: The paragraph refers to possible assignment of Rancho Cañada's water rights to CAW. Water rights have yet to be confirmed for this project as discussed for pages 3.10-7 and 3.10-20 below.

Page 2-12, Table 2-2, row for MPWMD: The second sentence should read, "Potential approval of non-Cal-Am water distribution system" (delete the words "mutual water company").

Page 3.2-27, lines 13-24: This section describes the assumptions used to estimate the annual pre-project groundwater recharge, but the logic used to calculate the "estimated annual total runoff and recharge of 34.9 acre-feet (AF) for pre-project conditions" is not shown. This logic and associated calculations may be in the referenced report (Balance Hydrologics, 2005a), but this report is not available on the County website. ***MPWMD hereby requests that we be provided a copy of this report.*** Similarly, the annual post-project groundwater recharge estimate is referenced (i.e., 33.2 AF), but not explained in the text. Given the importance of potential impacts to the Carmel Valley Alluvial Aquifer, these estimates should be more thoroughly explained in the text.

Page 3.10-6, lines 31 and 32: The text on line 31 states: *"The California American Water Company (Cal-Am) is the water purveyor for the County."* This is incorrect. Cal-Am is the water purveyor for the majority of customers in the following areas: Monterey Peninsula, the Cities of Sand City and Del Rey Oaks, portions of the City of Seaside, portions of the Highway 68 corridor, Carmel Valley from about River Mile 15 to the Pacific Ocean, Carmel, and portions of the Carmel Highlands and Yankee Point areas. Many customers within this area are served from other systems; the largest is the City of Seaside municipal water system, and the smallest are individual domestic wells. In addition, many large properties, including the Rancho Cañada Golf Club, Carmel Valley Ranch, Tehama and Monterra Subdivisions, and the Santa Lucia Preserve (Rancho San Carlos), are served by private wells.

Page 3.10-7, lines 1-2: The sentence should state that "the remaining population is served by private wells not regulated by Cal-Am, but which are regulated by the Water Management District." [underlined text is new]

Page 3.10-7, line 6: The 14,106 AFY was CAW's 10-year historical average used as the baseline in SWRCB Order 95-10. CAW was ordered to reduce diversions to a quantity less than this amount, not to this amount.

Page 3.10-7, lines 26-41: It is noted for MPWMD permitting purposes, the applicant must demonstrate adequate water rights. A reservation of an amount of water on Table 13 of SWRCB Decision 1632 is not the same as obtaining an appropriative water right permit from the SWRCB, which entails a formal approval process. The District's understanding is that water rights are associated with the parcel on which the well is located.

Page 3.10-7, lines 35-38: The text in lines 35-38 states: *"As documented in Table 13 of Decision 1632, SWRCB also recognized that Rancho Cañada holds a superior water right to Cal-Am's water rights and SWRCB reserved 700 AF for appropriation to Rancho Cañada."* This is partially incorrect. Permit Condition 9 in SWRCB Decision No. 1632, which ordered issuance of a water right permit for the Monterey Peninsula Water Management District's then-proposed New Los Padres Dam and Reservoir Project, states in part:

> The priority of this permit [the MPWMD permit for the New Los Padres Project] shall be junior to any permit issued on the applications set forth in Table 13 or for the persons named in Table 13 for an amount of water not to exceed the quantity set forth in the column titled *"Quantity Reserved by SWRCB for Future Appropriation."*

No reference or statement is made in Decision No. 1632 as to the priority of Rancho Cañada's right that may be perfected pursuant to its Application A30111 relative to CAW's water rights.

Page 3.10-7, line 46 and Page 3.10-8, top: CAW has proposed the Coastal Water Project (CWP), and has not yet developed it. The CWP as proposed (yield of 11,730 AFY) would not meet the needs of future demand; it would help legalize existing diversions from the Carmel River and Seaside Basins. Alternatives to the CWP proposal, including a larger desalination plant at the same site, are being evaluated as part of the EIR process for the CWP, and could potentially meet future needs.

Page 3.10-9, Table 3.10-3: The listed production values provided in the table are correct. However, it is notable that the values for Reporting Years 1991 through 2001 and for Water Years 2002 through 2005 are metered and considered more accurate than the values that were estimated for Reporting Years 1986 through 1990, using the power consumption method. If these earlier, less accurate estimates are not included, production averages 424 AF per year over the 15-year period from July 1990 through September 2005 and the "Reported Avg./Turf Acre" rate, based on the "Implied Acreage" of 194.7 acres, is 2.2 AF/AC/YR. Use of more accurate metered records is recommended and will affect later calculations regarding project water demand. Notably, for MPWMD WDS permits, the procedures for alluvial wells adopted

by the District Board in October 2006 use the average of the past 10 years of metered production as the baseline.

Page 3.10-10 and 11: The section on "Federal Policies and Regulations" (line 5) states that "there are no federal regulations that affect public services and utilities." That may be true in general, but it is well-known locally that the Endangered Species Act (ESA) has affected and will likely continue to affect CAW water supply operations, and could also affect non-CAW well owners along the Carmel River who may affect critical habitat for the federally threatened steelhead fish and California red-legged frog through their water diversions. It is recommended that the section on "State Policies and Regulations" describe the role of the SWRCB and water rights in Carmel Valley, the California Department of Fish & Game, and other state regulators who affect water supply operations and available yield. The section on "Local Policies and Regulation" should be expanded to describe the MPWMD and Monterey County Health Department roles in issuing water system permits. It is noted that Table 2-2 lists these agencies in their standard regulatory context. However, use of Carmel River resources is highly regulated and may warrant additional discussion.

Page 3.10-17, Table 3.10-4: The 50% increase in production due to a "Very Dry Year" is questionable and should be further explained. If metered production values (i.e., RY 1991 through WY 2005) are used, then the greatest departure from the average occurred in WY 2002, when 522 AF was produced, which was 23% greater than the average.

Page 3.10-17, lines 17-19: The text indicates that the estimated current recharge to the aquifer (i.e., approximately 35 AF) is described in Section 3.2, *Hydrology and Water Quality*. See earlier comments on pages 3.2-27 and 3.10-9 regarding the adequacy of this section.

Page 3.10-18, Table 3.10-5a: The method used to account for "Treatment (15%) and System (7%) Loss" in Table 3.10-5a, Table 3.10-5b, and the associated text is incorrect and should be corrected. If the losses equal 22% and one needs to provide 79.7 AF, then a total of 102.2 AF must be produced, not 97.2 AF as shown in **Table 3.10-5a**. In this case, the losses equal 22.5 AF and delivered water equals 79.7 AF, for a total needed production of 102.2 AF. Similarly, in **Table 3.10-5b**, if the "Average Year Direct Water Demand" is 98.9 AF and the combined losses are 22% [Treatment (15%) and System (7%)], then the "Total Water Demand" should be 126.8 AF, not 120.7 AF as shown. The total water demand values should be corrected. The District requests the opportunity to review the revised calculations before they are published in the Final EIR to facilitate our reliance on these data. Please contact MPWMD Water Resources Division Manager Darby Fuerst at 831/658-5651 if you have questions.

Page 3.10-19, Table 3.10-5b, Village Water Demand: The water use estimates for various types of uses appear to be reasonable. See the above comment regarding the inaccurate methodology used to calculate system losses. However, the District's Water Demand Division Manager has been ill, and has not had the opportunity to review this section. ***The District requests an extension of time to Friday, March 14, 2008 for Water Demand Division staff to confirm the water demand conclusions in this section.***

Page 3.10-20, lines 1-2: The statement that wastewater conveyed to the Carmel Area Wastewater District's (CAWD) water recycling plant will eventually be released into the Carmel River Lagoon should be confirmed with CAWD, in light of recent Central Coast Regional Water Quality Control Board concerns about such releases.

Page 3.10-20, lines 10-31: The text (lines 10-11) refers to "water rights held by the property" but the District is not aware of any appropriative permit that has been issued by the SWRCB to date. As noted previously, a reservation of an amount of water on Table 13 of SWRCB Decision 1632 is not the same as obtaining an appropriative water rights permit from the SWRCB, which entails an often lengthy approval process. Rancho Cañada does not have a right to 700 AFY of water as inferred in line 13; rather, it has an application with the State Water Resources Control Board for an appropriative water right permit (application #A30111). In order for a water right to be valid, the SWRCB must follow the public notification, protest, and environmental review process specified in the California Water Code before issuing a permit for diversion and use of water. This process has not been initiated, and a permit has not been issued. There may be potential riparian water rights (yet to be documented for District review), but use of this type of right is more limited than an appropriative right.

The EIR text should be accurate and specific when discussing water rights, and avoid making potentially inaccurate assumptions. For example, lines 16-17 speculate about "assigning a portion of Rancho Cañada's water rights to Cal-Am for delivery back to the development..." Such action may not be realistic for many years in light of the January 2008 SWRCB Draft Cease and Desist Order against CAW, which would significantly restrict the ability of CAW to divert water from the Carmel River for <u>any</u> purpose in the foreseeable future, absent a major water supply project. CAW has requested a hearing before the SWRCB, which has been set for June 19-20, 2008. Thus, care should be taken in crafting recommended conditions of approval (lines 27-32) based on proponent water rights that are not yet formally recognized, or do not consider serious limitations that may be imposed on the CAW system.

The National Marine Fisheries Service and California Department of Fish & Game are also exerting greater control over CAW diversions from the river under the aegis of the Endangered Species Act. Notably, water right permits obtained from the SWRCB include a standard caveat that such rights do <u>not</u> supersede the authority of the ESA. The District's understanding is that the ESA also supersedes individual (non-CAW) water rights. Federal and state fishery agencies have focused intensive attention on the Carmel River as it is viewed as a lynchpin to preserve the Central Coast steelhead gene pool.

Page 3.10-21, lines 13-17: The comments for page 3.10-20 above also generally apply to the discussion of water supply infrastructure.

Thank you for considering these comments. The primary contact person is Henrietta Stern, Project Manager, at 831/658-5621 or <u>henri@mpwmd.dst.ca.us</u>, especially for WDS permit or CEQA questions. Technical questions about hydrology and water production should be directed to Darby Fuerst at 831/658-5651. Technical questions about riparian issues or the MPWMD River Work Permit should be addressed to Larry Hampson or Thomas Christensen at the District's Carmel Valley Field Office (831/659-2543).

Sincerely,

Henrietta Stern
Project Manager

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