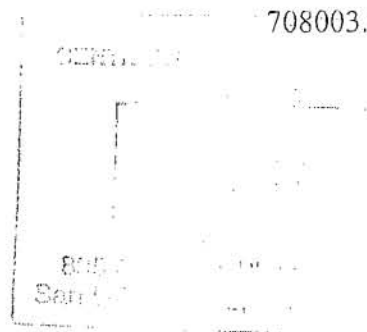




October 27, 2008

708003.22

State of California
 Regional Water Quality Control Board
 Central Coast Region
 895 Aerovista Place, Suite 101
 San Luis Obispo, CA 93401-7906



Re: Waste Discharge Permit R3-2008-0017
 Response to letter received from Steve Shimek, Monterey Coastkeeper

Attn: Michael Higgins, PE:

We are responding to the request for additional information received from Burton Chadwick and yourself for the letter submitted by Steve Shimek, an individual who represents himself as the "Monterey Coastkeeper".

Mr. Shimek's comments regarding the 95-10 requirement for a 1-for-1 reduction in pumping from the Carmel River Basin have been previously addressed in the following documents:

1. Addendum to the Sand City Water Supply Project
 Final Environmental Impact Report
 (State Clearinghouse #2004041133)
 CAL-AM INTERCONNECTION
 City of Sand City, September 2007

Refer to subsection 4.1.1, Update of Water Supply Regulatory Overview (Regional Groundwater)
 Refer to pages 8 and 9 (attached)

This FEIR Addendum was previously submitted to your office.

2. Permit issued by the Monterey Peninsula Water Management District #M07-02-L4
 "Acceptance of Permit Conditions for Approval of Application to Create 'Sand City Water Supply Project' Water Distribution System"
 Signed by Steve Matarazzo, City Administrator, June 11, 2008

This permit is submitted including Permit (4 pages) and Findings (6 pages) marked 045-054 which are attached.

Refer to #7 Findings and Evidence, page 3 of 6 (051)

Item No. 25
 December 4-5, 2008 Meeting
 Adoption of WDR Order No. R3-
 2008-0017, Sand City
 Attachment 7

City Hall
 1 Sylvan Park,
 Sand City, CA
 93955

Administration
 (831) 394-3054

Planning
 (831) 394-6700

FAX
 (831) 394-2472

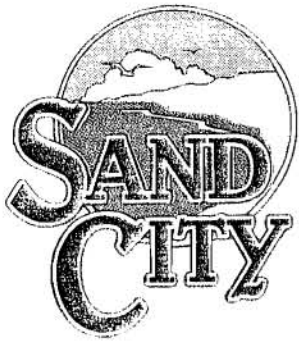
Police
 (831) 394-1451

FAX
 (831) 394-1038

Public Works
 (831) 394-1336

FAX
 (831) 394-2512

Incorporated
 May 31, 1967



Michael Higgins
California Regional Water Quality Control Board
October 27, 2008
Page 2

Both the FEIR and the MPWMD Permit address the legal and proper use of the potable water produced by the Sand City Brackish Water Treatment Facility.

Mr. Shimek had the opportunity to address the matter of water use at the public hearings of the Sand City FEIR Addendum and the MPWMD Permit. Both of those hearings were the proper place to raise any questions regarding the use of the potable water. The permit which the RWQCB is issuing addresses the handling and disposal of the waste concentrate water.

If you are in need of additional information, please contact our office.

Very truly yours,

City Hall
1 Sylvan Park,
Sand City, CA
93955


Richard G. Simonitch, PE
City Engineer

Administration
(831) 394-3054

Planning
(831) 394-6700

FAX
(831) 394-2472

Police
(831) 394-1451

FAX
(831) 394-1038

Public Works
(831) 394-1386

FAX
(831) 394-8518

cc: Burton Chadwick, PE
Steve Matarazzo, City Administrator
James Heisinger, City Attorney

ADDENDUM

to the

Sand City Water Supply Project Final Environmental Impact Report (State Clearinghouse #2004041133)

CAL-AM INTERCONNECTION



City of Sand City

September 2007

California Division of Occupational Safety and Health

- Water Distribution System Permit (allowing new and expanded connections to Cal-Am Water Distribution System in Sand City)
- Mining and Tunneling Permit (for any borings over 30 inches)

4.0 ENVIRONMENTAL IMPACTS OF PROPOSED CHANGES TO THE PROJECT

The discussion below updates relevant existing setting information, and describes changes in environmental impacts between the currently proposed project and the previously evaluated project in the 2005 Final EIR. An Environmental Checklist was prepared that compares the environmental impacts of the currently proposed project with those addressed in the 2005 Final EIR. The Environmental Checklist is located in Appendix A of this document. Environmental issues specifically discussed in this Addendum to the Final EIR include the following: *Hydrology and Water Quality* and *Utilities and Growth Inducement*. No notable changes or issues in other subject areas would result from the changes in the project or new information.

4.1 HYDROLOGY AND WATER QUALITY

4.1.1 Update of Water Supply Regulatory Overview (Regional Groundwater)

Since preparation of the 2005 Final EIR, the Superior Court in Monterey County has ruled that the potable water bearing layers of the Seaside Groundwater Basin are in overdraft (*California American Water v. City of Seaside*, Case Number M66343, 2006). The Court's ruling establishes the Natural Safe Yield for the potable water bearing aquifers of the Seaside Groundwater Basin and requires pumping in those aquifers to be reduced to the Natural Safe Yield level over time. Preparation and implementation of a Seaside Basin Monitoring and Management Plan is required by the Court. The purpose of the Plan is to monitor the existing and future condition of the Basin and to manage the Basin as a perpetual source of water for beneficial uses. Actions that will be taken under the Plan include: monitoring of current overdraft conditions and the present threat of potential seawater intrusion into the Coastal Subarea of the Basin; development and import of supplemental water supplies for the purpose of eliminating Basin overdraft and the associated threat of seawater intrusion; and establishment of procedures that will be implemented to address seawater intrusion.²

The Court also ruled that Sand City has the exclusive right to withdraw Brackish Water from the Aromas Sands aquifer to be used as the source of supply for the desalination facility subject of the Final EIR.

The State Water Resources Control Board Order 95-10 remains in effect for diversions of water from the Carmel River Basin by Cal-Am. Based on consultation with the State Water Resources Control Board in January 2006, water produced at the proposed RO/desalination facility would be exempt from the one-to-one replacement requirement for new water sources in Order 95-10, however. Water

² Seaside Basin Monitoring and Management Program *in* Seaside Groundwater Basin Watermaster Board Request for Proposals to Provide Consulting Services for Managing And Implementing the Seaside Basin Monitoring And Management Program, September 29, 2006. [<http://www.ci.seaside.ca.us/pw%5Cpdf%5CRFPWater.pdf>]

would be extracted from the Aromas Sands aquifer of the Seaside Groundwater Basin, which is exempt from Order 95-10.

4.1.2 Overview of the Impacts of the Revised Sand City Water Supply Project

The 2005 FEIR evaluated the potential hydrology impacts that would result from implementation of Sand City Water Supply Project. At the time of preparation of the FEIR, the water distribution system in Sand City was proposed to be disconnected from the Cal-Am Water Distribution System. With the new treatment system, the water supplied by the RO/desalination plant being available to Cal-Am would effectively reduce the pumping from the Carmel River Basin for water users on the Monterey Peninsula. The 2005 Final EIR estimated that Cal-Am water used in Sand City was then approximately 135 acre-feet per year (during 2003/2004). Subsequently in 2006, annual water use in Sand City was 94 acre-feet.³

Under the revised project, Sand City will not be disconnected from the Cal-Am regional water supply system. The proposed RO/desalination facility will supply 300 acre-feet of potable water to the Cal-Am water distribution system per year. In the near term, most of the water produced at the RO/desalination facility will serve as current water replacement within the regional system to reduce pumping from the Carmel River and/or the Seaside Groundwater Basins which are currently in overdraft. In the long-term, growth in Sand City and associated water demand, will occur in conformance with the Sand City General Plan adopted in 2002. Over time, as new development in Sand City is constructed and occupied, some of the new water supply from the RO/desalination facility will be used to serve future development or redevelopment projects in Sand City. The water will not be used directly from the RO/desalination facility, but supplied from the overall regional water distribution system as a mixture from various sources, including the RO/desalination plant. Under the revised project, water available for future projects will be allocated by the City from a 206 acre-feet/year additional water entitlement. The water entitlement for Sand City will be approved by the Monterey Peninsula Water Management District. The 206 acre-feet per year water entitlement is consistent with the previous project description of permanently replacing existing supplies of Cal-Am water provided to Sand City (now 94 acre-feet per year) and reducing pumping in overdrafted aquifers.

New service connections at future developments in Sand City will be subject to the conservation rules of the Monterey Peninsula Water Management District. Future development also will be subject to review by the City of Sand City to ensure that adequate water supplies are available. A mitigation measure adopted in the Mitigated Negative Declaration for the Sand City General Plan (2002) requires future projects to demonstrate the availability of water through existing allocations, proven water rights or the successful acquisition or production of new supplies.⁴ This currently proposed project does not alter any of the policies or procedures implemented by the District and the City to achieve water conservation.

Impacts to Groundwater

The key question regarding groundwater is whether the revised project will directly or indirectly result in new adverse impacts to groundwater levels or supply. The potential for the revised project to result in direct or indirect impacts is described below.

³ Source: Cal-Am Water Company, for Water Year 2005-2007.

⁴ Mitigation Measure 3.16.2 from the Sand City General Plan Mitigated Negative Declaration (2002) states: *Any and all development within the City may proceed only upon the demonstrated availability of water through existing allocations, proven water rights, or the successful acquisition or production of new supplies. Project specific environmental review will be required.*



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

**ACCEPTANCE OF PERMIT CONDITIONS FOR
APPROVAL OF APPLICATION TO CREATE
“SAND CITY WATER SUPPLY PROJECT” WATER
DISTRIBUTION SYSTEM**

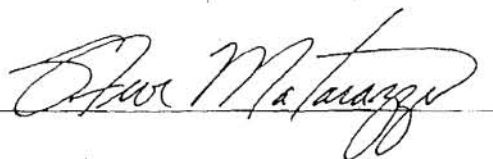
MPWMD Permit #M07-02-L4

**Desalination Plant Location: APN 011-243-002 and portions of 011-243-006
Service Area: City of Sand City**

**WDS Approval Date: October 15, 2007 by MPWMD Board; amended by Board adoption
of MPWMD Ordinance No. 132 on January 23, 2008**

The Permittee, defined as the **City of Sand City**, hereby confirms that Permittee has read and understands the Final Conditions of Approval for the multiple-parcel connection water system for **Permit #M07-02-L4** approved by the Monterey Peninsula Water Management District Board of Directors for the creation of the **“Sand City Water Supply Project Water Distribution System.”** The Permittee accepts these conditions as a binding part of the WDS permit approval, and promises to abide by and carry out these conditions in good faith. The Permittee agrees to provide Permit #M07-02-L4 and all related agreements and documents to any succeeding owner/operator of the water distribution system.

For Permittee: ****Attach Notary Certificates****

By:  Date: 6/11/08

(Print name of authorized representative below signature)



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

Recording Requested by:
Monterey Peninsula Water Management District (P&E)

And When Recorded Mail To:
Monterey Peninsula Water Management District
Attention: Henrietta Stern
Post Office Box 85
Monterey, California 93942-0085

**NOTICE AND DEED RESTRICTION
REGARDING LIMITATION ON USE
OF A WATER DISTRIBUTION SYSTEM**

NOTICE IS GIVEN that the Monterey Peninsula Water Management District (hereinafter referred to as the Water Management District or "MPWMD"), duly formed as a water district and public entity pursuant to the provisions of law found at Statutes of 1977, Chapter 527, as amended (found at West's California Water Code Appendix, Chapters 118-1 to 118-901), has approved a Water Distribution System (WDS) Permit for the real property referenced below as "Subject Property."

NOTICE IS FURTHER GIVEN that the real property affected by this document is situated in the City of Sand City:

**BEING LOTS 2, 4, 6, 8, 10, AND 12, AND THE SOUTHERLY 10.00 FEET
OF LOTS 1, 3, 5, 7, 9, AND 11 OF BLOCK 17, "MAP OF EAST
MONTEREY" FILED OCTOBER 18, 1887 IN VOLUME 1 OF CITIES
AND TOWNS, AT PAGE 22, IN THE OFFICE OF THE COUNTY
RECORDER FOR THE COUNTY OF MONTEREY, CALIFORNIA.
CONTAINING 12,750 S.F. MORE OR LESS**

ASSESSOR'S PARCEL NUMBER 011-243-002 and 011-243-006

This real property is hereinafter referred to as the "Subject Property." The Subject Property is located within the jurisdiction of the Water Management District. The **Sand City Redevelopment Agency, a Public Agency**, is record Owner(s) of the Subject Property.

Owner(s) and the Water Management District each acknowledge and agree that the terms of MPWMD WDS Permit #M07-02-L4, including all Conditions of Approval associated with that Permit, which are attached hereto and made a part hereof, are permanent requirements of the Subject Property. Owner(s) and the Water Management District further agree that the maximum allowed annual production of water from the approved Water Distribution System is 300 acre-feet per year to service legal parcels within City limits via one master connection to the California American Water system, as shown in Attachment 1, in compliance with the Conditions of Approval and MPWMD Ordinance No. 132.

Owner(s) acknowledge that the Conditions of Approval for MPWMD WDS Permit #M07-02-L4, including the limitation on water use referenced above have been voluntarily accepted and are permanent and irrevocable, unless amended by the filing of a subsequent deed restriction associated with a new, amended Water Distribution System Permit.

NOTICE IS FURTHER GIVEN that this agreement is binding and has been voluntarily entered into by Owner(s), and each of them, and constitutes a mandatory condition precedent to receipt of regulatory approval from the Water Management District relating to the Subject Property. This agreement attaches to the land and shall bind any successor or assignee of Owner(s).

NOTICE IS FURTHER GIVEN that present and/or future use of water at the Subject Property site is restricted by Water Management District Rules and Regulations to the water use requirements referenced above. Any Intensification of Use on the Subject Property, as defined by Water Management District Rule 11, will require prior written authorization and permit from the Water Management District. Approval may be withheld by the Water Management District, in accord with then applicable provisions of law. Present or future Allocations of water may not be available to grant any permit to intensify water use at this site. If any request to intensify water use on Subject Property is approved, connection charges and other administrative fees may be required as a condition of approval.

NOTICE IS FURTHER GIVEN that intensification of water use on Subject Property that occurs without the advance written approval of the Water Management District is a violation of Water Management District Rules and may result in a monetary penalty for each offense as allowed by Water Management District Rules. Each separate day, or portion thereof, during which any violation occurs or continues without a good faith effort by the Responsible Party to correct the violation shall be deemed to constitute a separate offense. All Water Users within the jurisdiction of the Water Management District are subject to the Water Management District Rules, including Rules 11, 20, 21, 23, 24, and 148.

The Owner(s) and Water Management District each intend that this Notice and Deed Restriction act as a deed restriction upon the Subject Property, and that it shall be irrevocable under its terms. This document shall be enforceable by the Water Management District or any public entity that is a successor to the Water Management District.

The Owner(s) elect and irrevocably covenant with the Water Management District to abide by the conditions of this Notice and Deed Restriction to enable issuance of MPWMD WDS Permit #M07-02-L4. But for the limitations and notices set forth herein, issuance of this Water Permit

047

would otherwise be withheld and found to be inconsistent with the Water Management District Rules and Regulations.

This Notice and Deed Restriction is placed upon the Subject Property. Any transfer of this property, or an interest therein, is subject to this deed restriction. This Notice and Deed Restriction shall have no termination date unless amended by the filing of a subsequent deed restriction.

If any provision of this Notice and Deed Restriction is held to be invalid, or for any reason becomes unenforceable, no other provision shall thereby be affected or impaired.

The undersigned Owner(s) agree with and accepts all terms of this document stated above, and requests and consents to recordation of this Notice and Deed Restriction Regarding Limitation on Use of a Water Distribution System. The Owner(s) further agree to notify any present and future tenant of the Subject Property of the terms and conditions of this document.

OWNER(S) agree to recordation of this Notice and Deed Restriction in the Recorder's Office for the County of Monterey. Owner(s) further unconditionally accept the terms and conditions stated above.

(Non-MPWMD signatures must be notarized)

Sand City Redevelopment Agency,
a Public Agency

By: David K. Pendergrass
David K. Pendergrass, Chair

Date: June 11, 2008

ATTEST:
Mary Ann Carbone
Mary Ann Carbone, Secretary

By: _____
Henrietta Stern, Project Manager
Monterey Peninsula Water Management District

Date: _____

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H. Stern, revised 04/21/08 per FF review

FINAL

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

FINDINGS of APPROVAL

CONSIDER APPLICATION TO CREATE
SAND CITY WATER SUPPLY PROJECT WATER
DISTRIBUTION SYSTEM

Application #20070803SAN, Permit #M07-02-L4

Adopted by MPWMD Board on October 15, 2007.

Refined pursuant to Board adoption of Ordinance No. 132 on January 23, 2008.

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: **The City of Sand City (City) and/or the Sand City Redevelopment Agency** are identified as the owner of facilities and/or properties associated with the Sand City Water Supply Project Water Distribution System (SCWDS). The proposed SCWDS is comprised of extraction wells, pumps, 300 acre-feet per year (AFY) reverse osmosis desalination plant, water mixing equipment and a horizontal brine injection well. Brackish water extracted by beach wells west of Highway One will be conveyed to the desalination facility at the 0.8-acre "Campos" property east of Highway One (west of Catalina Street bounded by Elder and Shasta Avenues). The fresh water produced at the desalination plant will be adjusted for pH and disinfected, and mixed with water from the California American Water (CAW) system to reduce the potential for corrosion in existing CAW pipelines. Water will then be conveyed through an 8-inch pipeline roughly 900 feet along Catalina Avenue, where it will directly enter the CAW system at a 14-inch main at Roberts and Olympia Avenues in Seaside. The "reject" water from the desalination plant will conveyed by 6-inch pipeline back toward the beach, diluted as needed with brackish water to attain a concentration similar to full seawater, and will be injected via a horizontal injection well along Vista Del Mar Drive into the naturally-occurring seawater wedge to eventually flow subsurface towards Monterey Bay. Pipelines associated with the Project will be placed in City right-of-ways in existing streets or other streets identified on subdivision maps, or via an encroachment permit issued by Cal-Trans.

All of the 300 AFY produced by the desalination plant will eventually be used within the City boundary to facilitate new construction and redevelopment projects in compliance with the City's approved General Plan. Pursuant to MPWMD Ordinance No. 132, a water entitlement ensures 206 AFY of new or intensified CAW water service to parcels within Sand City with the exception of parcel APN 011-501-014. The 206 AFY is the difference between the 300 AFY desalination plant production and 94 AF of CAW water consumption in the City in Water Year 2006. Until the full 300 AFY production is used within the City, CAW has access to potable water to help reduce water extractions from the Carmel River and Seaside Basins to meet existing community water needs.

EVIDENCE: Application #20070803SAN, including all technical attachments, including environmental and engineering documents. Draft Environmental Impact Report (EIR) for Sand City Water Supply Project, SCH #2004041133 dated June 2004; Final EIR for Sand City Water Supply Project dated December 2004; Addendum to Final EIR/Cal-Am Interconnection dated September 2007. Map with legal description of parcels for "Schedule A - Sand City Desalination Facility, Lands of the Sand City Redevelopment Agency" dated September 25, 2007, MPWMD Rules and regulations as amended by Ordinance No. 132, adopted January 23, 2008. All SCWDS documents are available at the City of Sand City.

2. FINDING: The SCWDS is within the area served by California American Water with the exception of parcel APN 011-501-014. The MPWMD Board approval of a separate application by CAW includes annexation of this parcel.

EVIDENCE: Permit application as specified in Finding #1; CAW permit application #20070829CAW; map of CAW service area; minutes of MPWMD Board meeting of October 15, 2007, Item 20.

3. FINDING: A total of four wells at two locations on beach sands west of Highway One between Bay and Tioga Avenues to extract brackish water from the shallow Aromas Sands Formation, and a horizontal injection well on Vista del Mar Drive roughly 200 feet south of Tioga Street will be installed pursuant to well construction and water distribution system permits issued by the Monterey County Health Department (MCHD) and/or California Department of Public Health (CDPH) and other responsible agencies.

EVIDENCE: Permit application as specified in Finding #1.

4. FINDING: Applicant has applied to MPWMD for a permit to create the SCWDS described in Finding #1.

EVIDENCE: Permit application as specified in Finding #1.

5. FINDING: Based on District staff analysis of the engineering, hydrogeologic and environmental data provided in the application, 300 AFY has been set as the annual production limit for the SCWDS specified in Finding #1 for delivery to the CAW system via one connection, with the constraints imposed by the MPWMD Conditions of Approval.

EVIDENCE: Permit materials specified in Finding #1; MPWMD Permit #M07-02-L4, Conditions of Approval.

6. FINDING: The application to create the SCWDS, along with supporting materials, is in accordance with District Rules 21 and 22.

EVIDENCE: Permit application as specified in Finding #1.

Required Findings (MPWMD Rule 22-B)

7. FINDING: The approval of the permit would not cause unnecessary duplication of water service with any existing system. The subject property is within the areas served by CAW, and would function as an additional source of supply to be integrated into the CAW system that is exempt from the one-for-one requirement imposed by State Water Resources Control Board (SWRCB) Order WR 95-10. The SCWDS would help reduce CAW diversions from the Carmel River and Seaside Groundwater Basins in the near-term as CAW develops a replacement source of supply. The Superior Court has determined that the City enjoys rights to the Aromas Sands Formation for its Project pursuant to the Final Decision on the Seaside Basin Adjudication. [Rule 22-B-1]

EVIDENCE: Map of CAW service area; SWRCB Order 95-10; letter from SWRCB to City dated January 31, 2006; Monterey County Superior Court Final Decision, Seaside Basin Adjudication, Case M66343, March 27, 2006.

8. FINDING: The approval of the permit would not result in water importation or exportation to or from the District, respectively. [Rule 22-B-2]

EVIDENCE: The referenced service area is located wholly within the MPWMD as shown on District boundary location maps.

9. FINDING: Approval of the application would not result in significant adverse impacts to Sensitive Environmental Receptors (SER) as defined by MPWMD Rule 11, including the Seaside Groundwater Basin. Site-specific hydrogeologic evaluations have demonstrated that proposed pumping of extraction wells and use of discharge injection wells are not expected to have significant impacts on SERs or neighboring wells. [Rule 22-B-3]

- EVIDENCE: Hydrogeologic Assessment and environmental review documents specified in Finding #1.
10. FINDING: The application adequately identifies the right of the City to the source of water supply for its Project (brackish water in Aromas Sands Formation) and provides supporting verification. [Rule 22-B-4]
- EVIDENCE: Permit Application materials specified in Finding #1, including Superior Court Final Decision on Seaside Basin Adjudication, Case M66343, March 27, 2006.
11. FINDING: The application demonstrates existence of a long-term reliable source of water supply for the proposed use of up to 300 AFY for delivery into the CAW system; the desalination plant includes redundant facilities to ensure reliability. [Rule 22-B-5]
- EVIDENCE: Hydrogeologic assessment and engineering analyses included in permit application materials specified in Finding #1.
12. FINDING: The source of supply is brackish water in the ancient sand dunes comprising the Aromas Sands Formation. The cumulative effects of issuance of a permit for the subject property would not be expected to result in significant adverse impacts to the source of supply or the species and habitats dependent on the source of supply. [Rule 22-B-6]
- EVIDENCE: Hydrogeologic Assessment and environmental review documents specified in Finding #1.
13. FINDING: The source of supply for the subject parcel is not derived from the Carmel Valley Alluvial Aquifer or the Monterey Peninsula Water Resource System. The source of supply is not within the jurisdiction of the SWRCB, and has not been determined to be tributary to the source of supply for any other system. The City has been granted water rights to the source of supply by the Superior Court. [Rule 22-B-7]
- EVIDENCE: MPWMD map showing boundaries of project site and jurisdiction of SWRCB superimposed on Monterey County parcels; Hydrogeologic Assessment and environmental review documents specified in Finding #1; Superior Court Final Decision on Seaside Basin Adjudication, Case M66343, March 27, 2006.
14. FINDING: MPWMD Permit #M07-02-L4 allows a permanent intertie to the CAW system as the SCWDS represents a new source of supply for the CAW system. Intensification of use of CAW water facilitated by the SCWDS for new connections and remodels will be limited to parcels within the

City as specified by the permit Conditions of Approval and a separate Entitlement Ordinance creating MPWMD Rule 23.6 and amending Rules 11, 21 and 23.1. Parcels within the City already have access to CAW service pursuant to MPWMD Rules and Regulations. Fire-flow within the service area is already provided by CAW. [Rule 22-B-8]

EVIDENCE: Map of CAW service area available at District office; MPWMD Permit # M07-02-L4, Conditions of Approval #3, 13 and 28; MPWMD Rules and Regulations as amended by Ordinance No. 132, adopted January 23, 2008.

15. FINDING: The City and CAW have developed engineering and water quality requirements to prevent contamination of the CAW system, which is required to be in place to deliver water to CAW. [Rule 22-B-9]

EVIDENCE: Map of CAW service area; MPWMD Permit # M07-02-L4, Condition of Approval #14; project description in FEIR Addendum, September 2007.

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

16. FINDING: The application adequately identifies the responsible parties as the owners listed in Finding #1. [Rule 22-C-1]

EVIDENCE: Permit application as specified in Finding #1.

17. FINDING: The SCWDS will meet the water quality requirements to comply with California Title 22 water quality standards as administered by County and State health authorities. [Rule 22-C-2]

EVIDENCE: Permit application materials as specified in Finding #1. MPWMD Permit #M07-02-L4, Conditions of Approval #6, 15 and 17; California Administrative Code, Title 22.

18. FINDING: The application identifies the location of the source of supply for the water distribution system (water source and well site). [Rule 22-C-3]

EVIDENCE: Permit application as specified in Finding #1, including location map. MPWMD Permit #M07-02-L4, Conditions of Approval #4 and 5.

19. FINDING: The approval of the application would not create an overdraft or increase an existing overdraft of a groundwater basin unless a valid superior right is proven. No overdraft has been declared for the brackish Aromas Sands Formation. The Superior Court determined that the City shall have the right to produce brackish water from this Formation to operate its proposed desalination project "so long as such Production does not cause a Material Injury." [Rule 22-C-4]

EVIDENCE: Final Decision of Monterey County Superior Court on Seaside Basin Adjudication, Case M66343, March 27, 2006.

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, based on certified environmental review documents. The Superior Court determined that the City shall have the right to produce brackish water from the Aromas Sands Formation to operate its proposed desalination project "so long as such Production does not cause a Material Injury." Proof of such an injury is the responsibility of the complaining Party [Rule 22-C-5]

EVIDENCE: Environmental review materials in application as specified in Finding #1; Final Decision of Monterey County Superior Court on Seaside Basin Adjudication, Case M66343, March 27, 2006.

Compliance with California Environmental Quality Act (CEQA)

21. FINDING: In the review of this application, MPWMD has followed those 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 City of Sand City on September 19, 2007, City Resolution SC 07-84 adopting the Addendum to the Final EIR for the Project, and all environmental documents associated with the project. Copies of the Draft and Final EIR and the Addendum to the 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. MPWMD Notice of Determination for Approval of SCWDS dated October 26, 2007.

U:\Henri\wp\ceqa\2008\WDS2008\SANDCITYDESAL_08\SandCity_Findings_042108.doc
Final -- Prepared by H. Stern, 10/31/07, amended April 21, 2008 pursuant to Ord. 132