

DONALD G. HUBBARD
ALEXANDER F. HUBBARD

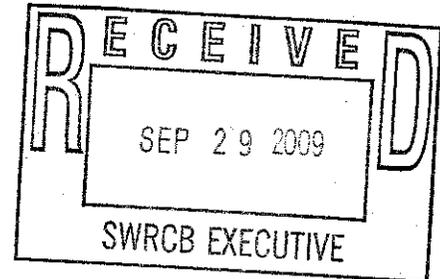
HUBBARD & HUBBARD LLP
A LIMITED LIABILITY PARTNERSHIP
AGUAJITO BUILDING
400 CAMINO AGUAJITO
MONTEREY, CALIFORNIA 93940-3586

TELEPHONE
AREA CODE 831
MONTEREY 372-7571
SALINAS 422-8763
FACSIMILE
372-1700
E-MAIL
AFHUBB@AOL.COM

September 29, 2009

COPY VIA EMAIL:
commentletters@waterboards.ca.gov
COPY VIA FIRST-CLASS MAIL
ORIGINAL VIA FEDERAL EXPRESS

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Re: COMMENT LETTER-10/20/09, BOARD MEETING: CAL-AM CDO

Dear Ms. Townsend:

This office represents Saucito Land Company and its co-owners of some 23 developed and operating commercial properties on the Monterey Peninsula within the service area of California American Water Company. All of our clients' holdings have been owned by them and their predecessor family members for more than 50 years and some have been "in the family" for more than 100 years. Our clients are deeply concerned by your draft Cease and Desist Order WR2009-00XX (the "Draft CDO"), dated as of September 16, 2009.

In February of 2007, the buildings on one of these properties (Assessor's Parcel Nos. 001-574-019, 001-574-020, 001-574-021 and 001-574-022) were destroyed by fire. Our clients are presently engaged in the process of seeking to reconstruct improvements on this property. In doing so, they propose to go from a straight commercial building use to a mixed use which will permit not only commercial uses but also a certain amount of low cost, moderate and market-rate housing which is badly needed on the Monterey Peninsula. It appears that a special permit may be needed to accomplish this objective. The City of Monterey has indicated a willingness to allocate a significant amount of its remaining water allocation to this project in order to achieve these goals that will benefit the community.

In addition to the aforesaid proposed allocation of city water, the buildings that were destroyed by fire in February 2007, will be replaced by buildings to be constructed upon parcels that before the fire had an existing water allocation. However, the pre-existing service connections were obviously disrupted by the fire and it is not clear from the Draft CDO how these pre-fire allocations will be treated. If our clients are unable to proceed with this project, it will not only have a severe impact upon them but it will also have a severe impact upon the City of Monterey inasmuch as the subject property is a desirable project for the public and it is located right in the middle of the main street in the center of Monterey.

In addition to the foregoing, over the years, our clients have been granted certain water allowances and certain water credits to their various properties in accordance with applicable rules and regulations, upon which they have justifiably relied. Substantial amounts of time, energy and money have been expended by them in obtaining said water allowances and water credits and in connection with planning for their use in environmentally sound and aesthetically appealing projects that will be beneficial to the communities in which they are situated and to the many tourists who visit the Monterey Peninsula each year.

Paragraph 2., of the Draft CDO, may preclude the utilization of our clients' existing water allowances and water credits for the purposes for which they are intended. If this is the intention of the Board, such may constitute a "taking" of a valuable property right with all the attendant consequences and remedies. If this is not the intention of the Board, then we submit that paragraph 2., needs to be rewritten to make it clear that existing water allocations and water credits are not to be impaired by the Order so that our clients, and others in a similar position, may proceed with plans for the utilization of these water allowances and water credits.

In aid of the utilization of water credits, we would also urge that provision be made permitting transfer of water credits freely from one parcel to another, title to which is held in the same ownership, so long as the overall water usage is not increased. Such a provision would not only lead to better planning and usage of real property but would also lead to a more efficient use of the available water.

Jeanine Townsend
September 29, 2009
Page 3

We urge that the Board reconsider the Draft CDO in the light of the unique circumstances pertaining to our clients' above-referenced assessor's parcels. On behalf of our clients, we request that their unique project situate on the assessor's parcels identified above, in Monterey, be exempted from the provisions of paragraph 2., and that any allocation of its water by the City of Monterey to this project from the City's allocation also be exempted.

We note that water usage on the Monterey Peninsula averages 70 gallons per capita per day which is the lowest usage of any region in California. We urge that the Draft CDO be reconsidered in the light of this fact.

Your consideration of the foregoing will be most appreciated.

Respectfully,



Donald G. Hubbard

DGH:dj
C:\DJ\SAUCITO\TOWNSEND.L1.WPD

cc: Saucito Land Company