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**SUBJECT: NEGATIVE DECLARATION FOR THE ORD COMMUNITY SPHERE OF
INFLUENCE AMENDMENT AND SERVICE AREA ANNEXATION PROJECT**

Dear Mr. Niizawa:

LandWatch Monterey County reviewed the Draft Initial Study/Negative Declaration for proposed changes to the MCWD jurisdictional boundaries. The project would amend MCWD's Sphere of Influence and expand its Service Area to include all of the former Fort Ord including lands within the jurisdiction of the U.S. Army. Development within the area is guided by the Fort Ord Reuse Authority, the Fort Ord Reuse Plan, city and County General Plans, and the Master Plans for CSUMB, Fort Ord Dunes State Park and MBEST. MCWD currently provides service to this area as outlined in the 1998 Water/Wastewater Facilities Agreement between FORA and MCWD which expires when FORA sunsets. The proposed project would allow water and wastewater service to continue beyond the FORA expiration and provide customers the right to vote for MCWD Board of Directors.

We have the following comments:

1. The project description should be expanded to fully describe the project.
 - A. It appears the proposed boundaries of the MCWD would include portions of the MPWMD. If this is the case, potential jurisdictional conflicts should be addressed. For example, the well for Bayonet and Blackhorse golf course is in the Seaside aquifer. Under the proposed project, the well would be within the MCWD as well.
 - B. If a project would be in both jurisdictions, please address which jurisdiction would provide water and the decision-making process to resolve the conflict.

C. If FORA is extended, what would be the status of the 1998 Water and Wastewater Facilities Agreement?

2. The document finds that all General Plans and/or project EIRs are consistent with the Reuse Plan EIR (p. 2). The germane consistency determination is consistency of General Plans, etc. with the FORA Reuse Plan, not the FORA Reuse Plan EIR. Please identify proposed projects (General Plans, etc.) that have not received related consistency determinations e.g., Whispering Oaks/MST project.
3. The document states the proposed project “would not increase development potential beyond that envisioned in the adopted planning documents...”(p. 2)

The project is proposed in anticipation of FORA’s elimination in 2014. Under that scenario, the FORA Reuse Plan may not be applicable, and local jurisdictions with land use authority on the former Fort Ord may be free to revise their land use plans to accommodate added growth. Even if FORA is extended, there is potential for new development beyond the limitations provided for in the Sierra Club/FORA agreement (Chapter 8) if infrastructure issues are addressed.

The potential for future growth under either scenario should be evaluated. This information is needed to address the following LAFCO criterion for expanding a sphere of influence (Government Code Section 56425):

The present and planned land uses in the area, including agricultural and open-space lands.

4. The document states further, “...and more importantly, impacts related to such development would be anticipated to occur with or without the proposed project.” (p. 2) This statement seems inconsistent with the project description indicating that boundary changes are needed to allow MCWD to continue to provide service to the area. Thus, without the proposed project new development would need to obtain water from another source or it could not be approved. Please address this inconsistency.
5. The status of water supply projects should be updated, i.e., schedule for implementation of RUWAP and Regional Desalination Project. (p. 5) For example, the RUWAP is currently on hold because large water users such as area golf courses needed to financially support the project have not agreed to participate in the project. Also, the future of the Regional Desalination Project is in question given legal challenges and uncertainty regarding the Settlement and Purchase Agreements.
6. Reference is made to the Salinas Valley Reclamation Plant (p. 5). Please describe the location of this facility and its relationship to the MRWPCA regional wastewater treatment facility.
7. The document states, “The proposed SOI amendment and SA annexation would not have any direct environmental impacts because it would only result in a reorganization of jurisdiction boundaries with no direct physical changes to the environment.” (p. 8). CEQA

Guidelines require that both direct and **indirect** project impacts on the environment be assessed as follows:

§15064 (d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and the reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

The document should be revised to address the project's indirect impacts on the environment.

8. The document states, “ The Fort Ord Reuse Plan EIR describes and evaluates redevelopment of the former Fort Ord, including all infrastructure required for provision of service up to the groundwater allocation of 6,600 AFY...and collection of wastewater from planned land uses. The required CEQA analysis of future infrastructure for water service above the 6,600 AFY and up to 9,000 AFY is provided in other environmental reviews of future redevelopment plans and projects in addition to the EIRs prepared for those required water and wastewater facilities (such as MCWD RUWAP EIR) as needed; therefore, no additional analysis is presented or required herein...” (p. 8)

The Initial Study and ND should identify the specific sections/pages thereof so that the public knows where to look.

Additionally, the following provision from Chapter 8 of the FORA Master Resolution acknowledges the lack of infrastructure to meet future development beyond 6000 residential units and 6,600 AFY of water. This section is inconsistent with the above findings that no additional environmental review is required to address additional growth.

§8,01.010 (h)...No development shall be approved by FORA or any land use agency or local agency after the time specified in this subsection unless and until the water supplies, wastewater disposal, road capacity and the infrastructure to supply these resources to serve such development have been identified, evaluated, assessed, and a plan for mitigation has been adopted as required by CEQA, the Authority Act, the Master Resolution, and all applicable environmental laws.

It is worth noting that the EIR for the Regional Desalination Plant failed to address the growth-inducing potential of the 1,700 AFY that would be provided within the MCWD service area. In 2009 project proponents said the water was for growth at the former Fort Ord; the story was later changed indicating that the water was not needed for MCWD.

9. The Utilities and Service Systems section of the Initial Study states the Reuse Plan EIR would result in a demand of 6,600 AFY of potable water and 2,400 AFY of recycled water for irrigation. It indicates that implementation of the recycled water “continues to be evaluated by regional agencies...” (p. 31). As noted above, the RUWAP program is faced with uncertainty. Additionally, to-date 6,251.5 AFY out of the 6,600 AFY has been allocated with some jurisdictions near their allocation limits including the City of Marina and County of Monterey. (FORA Report, 11/6/11) The County of Monterey is considering a project that would exceed its allocation, and use of reclaimed water which is only for landscaping would not meet the project’s water demand. Please address these water constraints as required by the following LAFCO criteria for expanding Spheres of Influence:
 - The present and probable need for public facilities and services in the area.
 - The present capacity of public facilities and adequacy of public service which the agency provides or is authorized to provide.
10. The Initial Study finds that there are no impacts on any environmental resources resulting from the proposed project. The findings are based on assumptions identified above, i.e., only direct and not indirect impacts must be evaluated; the project would not increase development beyond that envisioned in adopted planning documents; water supply projects are available to meet water needs; and no additional analysis is need because other environmental documents have addressed impacts of development beyond

6,000 residential units and 6,600 AFY of water. As identified above, these assumptions are faulty. These issues should be addressed, and a new environmental document should be prepared and re-circulated.

Thank you for the opportunity to review the document.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy L. White', written in a cursive style.

Amy L. White
Executive Director

cc: MPWMD