

February 4, 2019

Via E-mail

Keith Van Der Maaten
General Manager
Marina Coast Water District
11 Reservation Road,
Marina, CA 93933-2099
KVanDerMaaten@mcwd.org

Re: Transition Agreements with Ord Community land use jurisdictions

Dear Keith:

I write on behalf of LandWatch Monterey County to ask again for the opportunity to review and comment on proposed agreements between Marina Coast Water District (MCWD) and the Ord Community land use jurisdictions concerning water supply after the Fort Ord Reuse Agency (FORA) sunsets in 2020.

A. Request for documents.

In your October 29, 2018 letter to the FORA Board of Directors, you stated that “MCWD intends to enter into Transition Agreements with each individual land use jurisdiction within the Ord Community.” LandWatch asked for copies of the proposed arrangements. In your December 3, 2018 e-mail to me, you declined to furnish the documents but committed to get us a “reviewable draft” no later than January 2019. We understand that drafts are now in circulation among the land use jurisdictions. Accordingly, LandWatch asks, pursuant to the California Public Records Act, that MCWD provide LandWatch with copies of all proposed “Transition Agreements” and all other proposed agreements related to water service with the Ord Community land use jurisdictions.

B. CEQA review is mandated before a commitment for water service.

LandWatch has had a continuing concern that MCWD should not commit to providing any additional groundwater to serve new development without first completing an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA). CEQA requires that environmental review occur *before* an agency commits itself to a course of action with foreseeable impacts to the environment. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116; *RiverWatch v. Olivenhain Municipal Water District* (2009) 170 Cal.App. 4th 1186.)

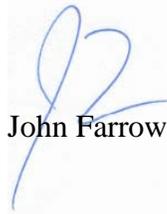
For example, LandWatch objected to the failure to complete adequate CEQA review for the recently proposed MCWD annexation of portions of the former Fort Ord, because increased groundwater pumping would aggravate seawater intrusion, increase overdraft, and deplete the affected aquifers. That conclusion was supported by the expert opinion of hydrologist Timothy Parker and by the recent decision by the County of Monterey to impose a moratorium on most new pumping in light of rapidly advancing seawater intrusion caused by continuing overdraft.

LandWatch and Keep Fort Ord Wild filed lawsuits to compel MCWD to undertake CEQA review *before* committing itself to serve new development in the Ord Community through the recently proposed annexation. In the September 17, 2018 Settlement Agreement resolving that litigation, MCWD agreed to reduce the scope of that proposed annexation to omit undeveloped areas from the annexation. MCWD also agreed not to provide, or commit to provide, a groundwater-sourced water supply for new residential units in Fort Ord beyond the 6,160 residential unit cap in the Fort Ord Reuse Plan. Finally, the Settlement Agreement ensures that either MCWD or the land use jurisdiction would complete a CEQA review before future annexations.

MCWD must comply with both CEQA's mandates and the Settlement Agreement, before making any commitment as described. If a proposed Transition Agreement or water service agreement constitutes such a commitment, then either MCWD or the land use jurisdiction must prepare and certify an EIR before approving the agreement.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



John Farrow

JHF:hs

Cc:

County of Monterey Board of Supervisors and Chief Administrative Officer
City of Seaside City Council and City Manager
City of Marina City Council and City Manager
City of Monterey City Council and City Manager
City of Del Rey Oaks City Council and City Manager
California State University at Monterey Bay, Office of the President