



FORT ORD REUSE AUTHORITY

920 2nd Avenue, Suite A, Marina, CA 93933

Phone: (831) 883-3672 | Fax: (831) 883-3675 | www.fora.org

July 30, 2015

Bill Kocher, Interim General Manager
Marina Coast Water District
11 Reservation Road
Marina, CA 93933

RE: Dispute Resolution Procedure

Dear Mr. Kocher,

The Fort Ord Reuse Authority (FORA) is in receipt of your July 13th Notice of Dispute under the FORA/Marina Coast Water District (MCWD) 1998 Water and Wastewater Facilities Agreement (Agreement). Subsequent to this letter, you and I met on Monday, July 20th, which initiated the Dispute Resolution Procedure outlined in Article 10.1 of the Agreement. The Agreement states that if the Agreement Administrators cannot resolve the dispute within ten working days (by August 3rd), they shall meet and confer together with the FORA Water/Wastewater Oversight Committee (WWOC). If the dispute is not resolved within *another ten working days* (by August 17th), they shall meet and confer with one FORA and one MCWD voting Board member. If the dispute is not resolved within *another ten working days* (by August 31st), the parties shall mediate the dispute at the earliest possible date (the mediator list is Exhibit C to the Agreement). Then, if the dispute is still not resolved, the parties may pursue any and all remedies available to them at law and equity...

FORA proposes the following resolution to the points made in your July 13, 2015 letter:

Disputed Element 1: FORA accepts MCWD's representation that it is "pursuing recycled water, water conservation, and desalinated water augmentation options." This statement satisfies the FORA Board's stated desire for "all water augmentation options (recycled, conservation, other)" to be pursued. FORA would like to participate in a three-party planning process with MCWD and Monterey Regional Water Pollution Control Agency to come to agreement on a Memorandum of Understanding regarding the reclaimed component first, followed by establishment of a planning process to study and address all other options. To aid this planning process, FORA would give up its objection to the \$470,000 in question being included in the FY 2015/16 Ord Community budget document.

Disputed Element 2: FORA accepts MCWD's statement that "the proposed new water rates will not go into effect until January 1, 2016". FORA does not accept MCWD's statement that the FORA Board endorsement of the prior Regional Desalination Project constituted an open ended commitment to that now failed project nor does it accept that "the current FORA Board cannot disallow litigation costs incurred to protect MCWD's rights under the RDP agreements." FORA proposes that as the new rates do not come into effect until January 1, 2016, time remains for FORA and MCWD to include this issue as one of the items for discussion in the planning process proposed under resolution for Disputed Element 1 and a cooperative effort be made by our two agencies to explore ways in which MCWD might be made

whole for expenditures made toward pursuit of the Regional Urban Water Augmentation Project and to "recover...costs of administration, operation, maintenance and capital improvements to provide adequate system capacity to meet...service demands." FORA continues to object to MCWD funding costs of litigation regarding the prior RDP out of the Ord cost center but accepts MCWD's assertion that the current year budget in question does not include direct legal expenditures of this nature and can therefore withdraw its objection to the 9% rate increase should the planning process noted above include this issue for further discussion and problem-solving.

As for point 4 noted in your letter, FORA notes that the dispute resolution process and the right to deem a budget adopted are mutually exclusive and hereby propose that MCWD allow the dispute resolution process to conclude before deeming the disputed elements approved.

Thank you for the opportunity to comment and we look forward to further meetings at your earliest convenience.

Sincerely,



Michael A. Houlemard, Jr.
Executive Officer