

STEEFEL
LEVITT
& WEISS

A PROFESSIONAL CORPORATION

ONE EMBARCADERO CENTER • 30TH FLOOR • SAN FRANCISCO, CA 94111-3784
Telephone: 415/788-0900 • Facsimile: 415/788-2019

November 12, 1996

VIA COURIER

Monterey Peninsula Water Management District
187 El Dorado
P.O. Box 85
Monterey, CA 93940

Attn: Darby Fuerst
General Manager

Re: *Cal-Am's Carmel River Dam Project*

Dear Darby:

California-American Water Company, intends to finance, design, construct and operate a new dam on the Carmel River, to be designated the Carmel River Dam. This Project will be (with one material exception) essentially the same as that proposed by the Monterey Peninsula Water Management District (the New Los Padres Dam/NLP) for which the District holds SWRCB Permit No. 20808 and Army Corps of Engineers Permit No. 20364S09. In addition to a change in the name of the Project and its proponent, Cal-Am's Project will also modify the use of the water produced by the Project. Specifically, the entire 3,381 acre feet per year of water that the District had intended to be used over time for new connections and expansions will, instead, be dedicated by Cal-Am exclusively to additional drought protection and to the attendant additional environmental protection which will naturally flow from it. In short, Cal-Am's Carmel River Dam Project will eliminate any growth component.

As you know, Cal-Am is subject to the rigorous mandates of State Water Resources Control Board Order No. WR 95-10 as well as the requirements imposed upon Cal-Am by the California Public Utilities Code and the California Public Utilities Commission. SWRCB Order No. WR 95-10 mandates that Cal-Am replace 10,730 acre feet of water annually, or approximately 69% of its present source of supply from the Carmel River. The SWRCB plainly anticipated the development of a new dam on the Carmel River as Cal-Am's replacement source of supply.

Cal-Am has fully examined the possible alternative options to replace the mandated 10,730 AFA. Cal-Am, like various prior agencies which have previously thoroughly reviewed the alternatives, including MPWMD and SWRCB, has concluded that no option other than a new dam on the Carmel River can satisfactorily address and solve both the need for such a substantial replacement water supply and the drought and environmental issues which are the subject of SWRCB Decision No. 1632 and Order WR 95-10. Conservation, desalinization and combinations of various interim projects alone simply cannot adequately address these long term issues.

As set forth in our January 5, 1996 letter to you, Cal-Am would, of course, prefer to have access to and to work with the District's existing SWRCB and ACOE permits rather than have to start those processes anew. Every effort should be made to protect and to avoid duplication of the enormous public investment in those permits. Cal-Am recognizes that for various reasons the District may desire to retain actual ownership of its permits in the public domain. Accordingly, Cal-Am is prepared to accept an appropriate license (to be negotiated) to use the District's existing SWRCB and ACOE permits. Cal-Am will seek to keep the District as a lead agency in connection with ongoing CEQA environmental work which Cal-Am will need to accomplish for its Project.

Based upon the foregoing, Cal-Am hereby makes formal request that the District promptly undertake each of the following:

1. License or otherwise transfer to Cal-Am the District's SWRCB Permit No. 20808 and ACOE Permit No. 20364S09;
2. Seek formal approval in writing from both SWRCB and ACOE for the licensing or transfer of those respective permits to Cal-Am;
3. Make available to Cal-Am all District work product relating to the District's EIR/EIS created in connection with the District's proposed NLP so that Cal-Am can efficiently complete the environmental and other regulatory processes for Cal-Am's Carmel River Dam Project; and
4. Make available to Cal-Am the District's CVSIM computer model, all studies done by or on behalf of the District in connection with the District's NLP and the EIR/EIS for the NLP, and such other District work product and expertise that may exist and may be pertinent to Cal-Am's development of its Project.

We look forward to the District's early response to these specific requests.

* * *

Cal-Am also encloses herewith its completed Application to Amend [Cal-Am's] Water Distribution System Permit with regard to its proposed new Carmel River Dam Project. We request that you promptly process the enclosed Application.

Finally, this will formally advise you that we are this day also filing:

1. An Application and related correspondence to the California Public Utilities Commission for issuance to Cal-Am of a Certificate of Public Convenience and Necessity and for related rate relief in connection with Cal-Am's Carmel River Dam Project. A copy of that Application, exclusive of exhibits is enclosed. Please advise if you desire any of the exhibits.

2. Correspondence to the State Water Resources Control Board seeking approval of the license to Cal-Am of the District's Permit No. 20808 and, alternatively, Cal-Am's Application to Appropriate Water by Permit and Petition for Change seeking revocation of the District's permit and issuance to Cal-Am of a permit essentially identical to the District's SWRCB Permit No. 20808 in the event the District for any reason fails to or is unable to license or otherwise transfer its SWRCB Permit No. 20808 to Cal-Am. Copies of that correspondence and Application and Petition are enclosed.

3. Correspondence to the Department of Army advising them of Cal-Am's intention to construct the Carmel River Dam Project and seeking their consent to the District's license or transfer to Cal-Am of ACOE Permit No. 20364509 or, alternatively, the outright reassignment of that permit by ACOE to Cal-Am. A copy is enclosed.

Yours very truly,


Lenard G. Weiss

LGW/yc
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Monterey Peninsula Water Management District
November 12, 1996
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cc: David Laredo, Esq., MPWMD
Walt Pettit, Executive Director, SWRCB
Ed Anton, Chief, DWR
Lt. Col. Richard Thompson, Dept. of the Army, COE
Dean Evans, CPUC
John Yager, CPUC
John Turner, Chief, Environmental Services, DF&G
Brian Hunter, DF&G
Keith Anderson, DF&G
Larry Foy, Cal-Am



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

187 ELDORADO STREET • POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (408) 649-4866
FAX (408) 649-3678

APPLICATION TO AMEND WATER DISTRIBUTION SYSTEM PERMIT

Office Use Only - Date Application Received

NOTE: Attach additional pages, if necessary, to complete each question.

1. Name of System California-American Water Company, Monterey Division
2. Name of Applicant California-American Water Company, Attn: L. D. Foy, V.P.
(If the applicant is not the owner or operator of the system, the form must also be signed by the system owner or operator.)
3. Mailing Address P.O. Box 951, Monterey, CA 93942-0951
4. Telephone Number 408/373-3051
5. Agent (if any) Lenard G. Weiss, Esq. c/o Steefel, Levitt & Weiss
6. Mailing Address One Embarcadero Center, 30th Floor, San Francisco, CA 94111
7. Telephone Number 415/788-0900
8. Street address of system See Attachment A
9. Describe proposed amendment. See Attachment A
10. If a modification of system capacity, i.e. production limit, describe proposed changes in source or sources of supply. See Attachment A
11. If a modification of expansion capacity, i.e. number of connections, indicate the number of new connections requested, and list Assessor's Parcel Number for each connection.
None
12. Describe current status of land use approval for proposed amendment from city or county, and attach that jurisdiction's approval of dedicated water allocation, if applicable.
See Attachment A

APPLICATION TO AMEND WATER DISTRIBUTION SYSTEM PERMIT -- Page 2

13. Provide an estimate of water production needed to meet the demand of the proposed project. If more than one connection is requested, include calculations showing how demand was estimated.
See Attachment A
-
14. Describe project's compliance with requirements of the California Environmental Quality Act (CEQA), and attach appropriate environmental documentation.
See Attachment A
-
15. Describe all water rights or water rights claims associated with the project (attach documentation), and describe any proposed modifications to the water rights due to the proposed amendment.
See Attachment A
-
16. If a permit for the proposed amendment is required from the Monterey County Health Department, attach a copy of the application submitted to MCHD.
See Attachment A
17. List unique issues or considerations, if any, that may pertain to the proposed amendment.
See Attachment A
18. List special conditions, if any, that are proposed for this permit amendment.
See Attachment A
19. Attach fee.
- | | | | |
|-----|------------------------|---|---------|
| N/A | One Connection | = | \$ 125 |
| | Two to 24 Connections | = | \$ 750 |
| | 25 or more Connections | = | \$1,500 |

Additional fees may be charged under District Rule 60 to process unusually complex applications that require more than 20 hours of staff time. Please note that all fees are non-refundable.

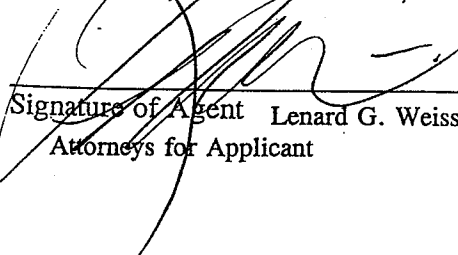
I declare under penalty of perjury that the information in this application and on accompanying attachments is correct and accurate to the best of my knowledge and belief.

CALIFORNIA-AMERICAN WATER COMPANY

Signature of Applicant  L.D. Foy, Vice President

November 12, 1996
Date

STEEFEL, LEVITT & WEISS, P.C.

Signature of Agent  Lenard G. Weiss
Attorneys for Applicant

November 12, 1996
Date

Signature of System Owner/Operator

Date

Office Use Only: Receipt Number



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

187 ELDORADO STREET • POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (408) 649-4866
FAX (408) 649-3678

Supplemental Questionnaire

NOTE: Attach additional pages, if necessary, to complete each question.

1. Does this request rely upon an "Environmental Document", as per the California Environmental Quality Act (CEQA)? If so, please specify the type of Environmental Document that was prepared and provide details regarding its preparation (e.g. notice of preparation, notice of completion, and any public hearing dates).

See Attachment B
2. Has any new information regarding the proposed project, its environmental impacts, the severity of those impacts, mitigations for those impacts, or alternatives become available since the lead agency reviewed the project?

See Attachment B
3. Will this request have any significant effects on the environment based upon the Environmental Document or other information? If so, describe the effects and the mitigations, if any, that are proposed to minimize those effects.

See Attachment B
4. Does this request rely on any specific hydrologic, geologic, or other technical study? If so, state the name of the study, the date it was finalized, and the principal author or authors. Attach a copy of each study cited.

See Attachment B
5. Have there been any studies done to determine if an alternative water supply is economically feasible and physically available? If so, please describe the alternatives that were identified and the reasons why they were rejected.

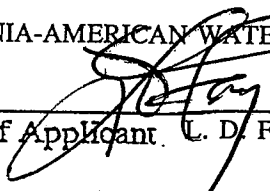
See Attachment B

6. Will the request cause any possible duplication of service with an existing water distribution system?
No.
7. Will the request result in either exportation of water outside of or importation of water into the Monterey Peninsula Water Management District? If so, please specify the quantities that would be either exported or imported.
No.
8. Will the request create or increase an overdraft of ground water, or cause a degradation in water quality due to sea-water intrusion or some other type of contamination?
No.
9. Will this request adversely affect the ability of existing water distribution systems and individual users to produce water?
No.
10. If the request is for an annexation of new territory into an existing water distribution system service area, is the property to be annexed surrounded by, or adjacent to other properties in the service area?
See Attachment B.

I declare under penalty of perjury that the information in this questionnaire and on accompanying attachments is correct to the best of my knowledge and belief.

CALIFORNIA-AMERICAN WATER COMPANY

November 12, 1996
Monterey, CA



Signature of Applicant C. D. Foy, Vice President

Date/Location

Note: The applicant may attach written findings for the Board to review and consider to support the action requested.

ATTACHMENT A
APPLICATION TO AMEND WATER DISTRIBUTION SYSTEM PERMIT
FOR CALIFORNIA-AMERICAN WATER COMPANY
CARMEL RIVER DAM PROJECT

8. The Monterey Division includes the cities of Monterey, Pacific Grove, Carmel-by-the-Sea, Del Rey Oaks, and Sand City together with portions of the City of Seaside and unincorporated portions of Monterey County.

9. To finance, design, permit, construct and operate the Carmel River Dam Project. MPWMD has obtained permits from the State Water Resources Control Board and the Department of Army to construct its proposed New Los Padres Project. However, at the November 7, 1995 general election the electorate declined to grant the District the authority to issue the bonds necessary to construct that project. Consistent with SWRCB Order No. WR 95-10, and subject to the necessary approvals of the California-American Public Utilities Commission, California-American Water Company (Cal-Am), through its Monterey Division, will finance, design, permit, construct and operate a Project (to be called the Carmel River Dam) essentially the same as MPWMD's proposed NLP with only one major exception. The exception is that the 3,381 acre feet of Project water designated by MPWMD for new and expanded connections will, instead, be dedicated by Cal-Am in its new Carmel River Dam Project exclusively to additional drought protection and to the additional environmental protection which will naturally flow therefrom. There will be no growth element of any kind in Cal-Am's Carmel River Dam Project and orders to that effect are sought from each of the public agencies involved. Except for the change in

the name of the Project to the Carmel River Dam and the change in the name of proponent to California-American Water Company and the change to eliminate any growth element from this project, Cal-Am's proposed Carmel River Dam Project will be essentially the same as the New Los Padres Project previously proposed by MPWMD.

10. This Application seeks an amendment to Cal-Am's existing water distribution system permit to allow it to be expanded by the construction and operation of Cal-Am's proposed new Carmel River Dam which Project will inundate and replace Cal-Am's existing Los Padres Dam and Reservoir. The Carmel River Dam Project will create a replacement source of supply to replace the approximately 10,730 acre feet of water annually removed by Cal-Am from the Carmel River Basin as required by SWRCB Order No. 95-10 (July 6, 1995). The entire balance of the water produced by the Project will serve exclusively the drought protection and environmental requirements described in SWRCB Decision 1632 and Order WR 95-10 and in MPWMD's FEIR/S and related supplemental documents; no part of the water produced by Cal-Am's Carmel River Dam Project will be used for new or expanded connections.

12. The status of land use approval and related permit information is on file with MPWMD; to Applicant's knowledge, no city or county land use approvals have been obtained to date; such approvals will be obtained by Cal-Am in due course and as required by law. The Carmel River Dam Project will be located entirely on Cal-Am-owned lands.

13. 24,000 AFA; see paragraph 10 above and see MPWMD's Final Environmental Impact Report/Statement and related supplements on file with MPWMD. 10,730 AFA are required to replace water Cal-Am is now diverting by its wells in Carmel Valley per SWRCB Order No. SR 95-10. The balance is required for drought protection and to protect and enhance the Carmel River environment. None of the water produced by the Carmel River Dam Project will be used to supply new or expanded connections.
14. MPWMD has certified its Final EIR/EIS and subsequent Addenda. All of the District's environmental documents are on file at the District. Litigation concerning same is pending in Monterey County Superior Court, Action Nos. H33519, H33520 and 105610. Cal-Am will prepare and file such additional environmental documentation as may be required.
15. See paragraph 14 above; see SWRCB D. 1632 and Permit No. 20808 on file with the MPWMD; see Department of the Army Permit No. 20364S09, on file with the MPWMD.
16. To the extent required, will be obtained and supplied in due course.
17. Change of Project description to a no growth Project, as described in paragraphs 9 and 10, above, should have only beneficial environmental impacts and, therefore, should not in itself require additional environmental review. However, Applicant

must first obtain an order from the California Public Utilities Commission authorizing Applicant to proceed with the Carmel River Dam Project.

18. See conditions listed in SWRCB D. 1632 and Permit No. 20808; see conditions listed in ACOE Permit No. 20364S09; in addition Applicant requests that MPWMD impose a condition that the production of Cal-Am's Carmel River Dam be dedicated exclusively to replace the 10,730 AFA required by SWRCB Order No. WR 95-10 and to drought protection and environmental protection and enhancement and that no part of that water may be used for additional or expanded water connections.

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**ATTACHMENT B
SUPPLEMENTAL QUESTIONNAIRE
FOR CALIFORNIA-AMERICAN WATER COMPANY
CARMEL RIVER DAM PROJECT**

1. Yes. The District's Final EIR/EIS for its New Los Padres Dam Project and all related documents and addenda are on file with MPWMD. Additional environmental work will be necessary and will be done by Cal-Am as required by various interested agencies.

2. Yes. Additional review of possible impacts on viticulture may be required; see Galante Vineyards, et al. v. MPWMD, et al., Monterey County Superior Court, Case No. 101478. In addition, the analysis of impacts and proposed mitigations on cultural resources (e.g., Esselen Indians) is incomplete and will require further analysis. Finally, Applicant will modify the Project description proposed by MPWMD to provide that the 3,381 AFA which District had designated for new growth will, instead, be dedicated exclusively to additional drought protection and to the additional environmental protection which will naturally flow therefrom and that no part of the water produced by Cal-Am's Carmel River Dam Project will be used for new or expanded connections.

3. Yes. See environmental documentation on file at the District and see SWRCB No. 1632 and SWRCB Order No. WR 95-10. In addition, Applicant proposes to modify the MPWMD's description of the Project to eliminate 3,381 AFA of water MPWMD

had designated for new connections and, instead, to add that water exclusively to the additional drought protection.

4. Yes. On file with District; see MPWMD's FEIR/EIS and related addenda and supporting studies and documents. Additional such studies may be required due to the elimination of any Project water for new or expanded connections.
5. Yes. On file with District; see MPWMD's FEIR/EIS and related addenda and supporting studies and documents.
10. Not applicable except to the extent of a proposed swap of land between Applicant and the U.S.A. as approved by an Act of Congress, Public Law 101-539, Section 2.

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