

EXHIBIT 17-D

**Order on
Four Complaints Filed Against
The California-American
Water Company**

**Carmel River
Monterey County**

Order No. WR 95-10

JULY 6, 1995

**STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

objectively monitored, (2) minimize its diversions for the Carmel River, and (3) mitigate the environmental effects of its diversions.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Cal-Am shall comply with the following conditions:

1. Cal-Am shall forthwith cease and desist from diverting any water in excess of 14,106 afa from the Carmel River, until unlawful diversions from the Carmel River are ended.
2. Cal-Am shall diligently implement one or more of the following actions to terminate its unlawful diversions from the Carmel River: (1) obtain appropriative permits for water being unlawfully diverted from the Carmel River, (2) obtain water from other sources of supply and make one-for-one reductions in unlawful diversions from the Carmel River, provided that water pumped from the Seaside aquifer shall be governed by condition 4 of this Order not this condition, and/or (3) contract with another agency having appropriative rights to divert and use water from the Carmel River.
3. (a) Cal-Am shall develop and implement an urban water conservation plan. In addition, Cal-Am shall develop and implement a water conservation plan based upon best irrigation practices for all parcels with turf and crops of more than one-half acre receiving Carmel River water deliveries from Cal-Am. Documentation that best irrigation practices and urban water conservation have already been implemented may be substituted for plans where applicable.

(b) Urban and irrigation conservation measures shall remain in effect until Cal-Am ceases unlawful diversions from the Carmel River. Conservation measures required by this Order in combination with conservation measures required

by the District shall have the goal of achieving 15 percent conservation in the 1996 water year and 20 percent conservation in each subsequent year.²³ To the extent that this requirement conflicts with prior commitments (allocations) by the District, the Chief, Division of Water Rights shall have the authority to modify the conservation requirement. The base for measuring conservation savings shall be 14,106²⁴ afa. Water conservation measures required by this order shall not supersede any more stringent water conservation requirements imposed by other agencies.

4. Cal-Am shall maximize production from the Seaside aquifer for the purpose of serving existing connections, honoring existing commitments (allocations), and to reduce diversions from the Carmel River to the greatest practicable extent. The long-term yield of the basin shall be maintained by using the practical rate of withdrawal method.
5. Cal-Am shall satisfy the water demands of its customers by extracting water from its most downstream wells to the maximum practicable extent, without degrading water quality or significantly affecting the operation of other wells.
6. Cal-Am shall conduct a reconnaissance level study of the feasibility, benefits, and costs of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plant. The objective of supplying water from the wells is to maintain surface flow in the stream as far downstream as possible by releasing water from San Clemente Dam for maintenance of fish habitat. The results

²³ Each water year runs from October 1 to September 30 of the following year.

²⁴ 14,106 afa represents Cal-Am's total diversions from the Carmel River.

of the study and recommendations shall be provided to the District and DFG for comment.

7. Cal-Am shall evaluate the feasibility of bypassing early storm runoff at Los Padres and San Clemente Dams to recharge the subterranean stream below San Clemente Dam in order to restore surface water flows in the river at an earlier date. The results of the study and recommendations shall be provided to the District and DFG for comment.
8. Cal-Am shall conduct a study of the feasibility, benefits, and costs of modifying critical stream reaches to facilitate the passage of fish. The study shall be designed and carried out in consultation with DFG and the District. The results of the study and recommendations shall be provided to the District and DFG for comment.
9. The studies required by conditions 6, 7, and 8 shall be carried out by persons with appropriate professional qualifications. The studies required by condition 7 shall be completed and submitted to the Chief, Division of Water Rights, within 5 months from the date of this order. The Chief, Division of Water Rights may extend the time for performing the study required by condition 8 upon making a finding that adequate flows were not available to perform the study. The studies required by conditions 6 and 8 shall be completed and submitted to the Chief, Division of Water Rights, within 12 months from the date of this order. The Chief, Division of Water Rights may extend the time for performing the study required by condition 8 upon making a finding that adequate flows were not available to perform the study. The report (or reports) transmitting the results of the study (or studies) shall describe the action (or actions) which Cal-Am will undertake to correct the problems addressed by the studies. Cal-Am shall provide a written response to any comments received on the study. If no action (or actions) will be taken to correct the underlying problem (or problems),

Cal-Am's report shall provide written justification why corrective action is not appropriate. Based upon the results of the studies, recommendations, comments by the District and DFG, and Cal-Am responses, the Chief, Division of Water Rights, shall determine what actions shall be taken by Cal-Am consistent with this Order and establish reasonable times for implementation.

10. Cal-Am shall remove the large rock immediately below the spillway of the Los Padres Dam which results in substantial loss of juvenile steelhead or implement some other reliable measure (or measures) to assure safe passage for fish over or around the rock. Prior to removing the rock Cal-Am shall consult with DFG and obtain any streambed alteration permit required by Fish and Game Code Section 1601. If Cal-Am leaves the rock in place, it shall consult with DFG when evaluating what other measures can be used to assure safe fish passage. Cal-Am shall comply with this measure within 4 months.

11. Cal-Am shall be responsible for implementing all measures in the "Mitigation Program for the District's Water Allocation Program Environmental Impact Report" not implemented by the District after June 30, 1996.²⁵ Not later than August 30, 1996, Cal-Am shall submit a report to the Chief, Division of Water Rights, identifying mitigation measures which the District does not continue to implement after June 30, 1996. At the same time, Cal-Am shall submit a plan for the approval of the Chief, Division of Water Rights, detailing how it will implement mitigation measures not implemented by the District. The Chief, Division of Water Rights, may excuse Cal-Am from implementing specific mitigation measures only upon making a finding that Cal-Am has demonstrated that it does not have

²⁵ On November 5, 1990 the District adopted a mitigation program to be carried out for five years. The plan is summarized in Section 6.2, *infra*. There is no assurance the District will continue with any or all of the elements of its mitigation program after November of 1995. (MPWMD:289, Vol. III, Appendix 2-D.)

adequate legal authority to implement the ability to finance such measures or demonstrates that such measures are demonstrably ineffective.

12. Within 90 days of the date of this order, Cal-Am shall submit for the approval of the Chief, Division of Water Rights:

- (a) A compliance plan detailing the specific actions which will be taken to comply with condition 2 and the dates by which those actions will be accomplished;
- (b) An urban water conservation plan; and
- (c) An irrigation management plan.

13. Starting with the first full month following adoption of this order, Cal-Am shall file quarterly with the Chief, Division of Water Rights:

- (a) Reports of the monthly total amounts being: (1) pumped from wells; and (2) diverted from the Carmel River,
- (b) Reports of the progress being made in complying with the schedule submitted to comply with condition 11, and
- (c) Reports of the progress being made in complying with conditions 6, 7, 8, and 9.

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14. The Chief, Division of Water Rights, is authorized to refer any violation of these conditions to the Attorney General for action under Section 1052 or to initiate such other enforcement action as may be appropriate under the Water Code.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 6, 1995.

AYE: John P. Caffrey
Mary Jane Forster
Marc Del Piero
James M. Stubchaer
John W. Brown

NO: None

ABSENT: None

ABSTAIN: None



Maureen Marché
Administrative Assistant to the Board