



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

SUPPLEMENT TO 5/16/05

MPWMD BOARD PACKET

Attached are copies of letters received between April 7, 2005 and May 4, 2005. These letters are also listed in the May 16, 2005 Board packet under item 16, Letters Received.

Author	Addressee	Date	Topic
G. W. Piercy, Jr.	Larry Foy	4/12/05	Water Conservation
David Dilworth	MPWMD Board	4/18/05	Cal-Am and Aquifer Storage and Recovery
Marc Del Piero	MPWMD Board	4/18/05	Consideration of Proposed Memorandum of Agreement with California American Water
Michael W. Stamp	MPWMD Board	4/18/05	Consideration of Proposed Memorandum of Agreement with California American Water
Sean Conroy	MPWMD Board	4/21/05	Future Water Needs of Carmel-by-the-Sea (Response from General Manager attached)
Michael W. Stamp	MPWMD Board	4/22/05	Proposed "Impact Based" Water Distribution System Permit Review System (Conceptual Ordinance No. 123)
Robert Greenwood	Alvin Edwards	4/24/05	Proposed Ballot Measure re Public Acquisition of California American Water Company (Response from General Manager attached)
Dick Butler	Alana Knaster	4/26/05	Draft Revised EIR for the September Ranch Subdivision Project (Response from General Manager attached)
David A. Gutierrez	David A. Berger	4/29/05	San Clemente Dam, No. 642, Monterey County (Response from General Manager attached)
Derinda L. Messenger	MPWMD Board	4/29/05	APN 169-131-002 and 003; Storage Pro Self Storage Facility (Response from General Manager attached)
Betsy S. Lichti, P.E.	David A. Berger	5/2/05	Requirements for the Permitting of the Santa Margarita Well ASR (Response from General Manager attached)

HACIENDA CARMEL COMMUNITY ASSOCIATION

1

1000 Hacienda Carmel

Carmel, California • 93923-7949

Telephone (831) 624 - 8261 • Fax (831) 625 - 7805

www.haciendacarmel.us

April 12, 2005

RECEIVED

APR 10 2005

MPWMD

Mr. Larry Foy
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93940

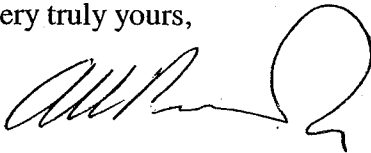
Dear Mr. Foy,

Hacienda Carmel is always thinking of ways to save water, and looming cost increases for water concern us very much. In speaking with the district's water conservation department, I understand the district is providing incentives for homeowners to install hot water recirculating pumps. We would like to consider installing such pumps for all of the 300 units at Hacienda Carmel.

There would be a substantial water savings, as well as a monetary savings to the Association, if the district would entertain providing additional incentives to large community associations, such as this one, who install such water saving devices.

Perhaps you would be so kind as to bring this thought before your Board of Directors, provided that it would be appropriate to do so. I would be pleased to appear before the Board if you so desire. I look forward to your response

Very truly yours,



G. W. Piercy, Jr.
General Manager

GWP:jpm

Bringing you HOPE -

Helping Our Peninsula's Environment

Box 1495, Carmel, CA 93921

831/624-6500

Info@1hope.org

www.1hope.org

RECEIVED

APR 18 2005

Water Management District

April 18, 2005

MPWMD

Cal-Am & Aquifer Storage and Recovery Proposed Gift

Good Afternoon Directors,

We do support the Aquifer Storage and Recovery project as
We are currently aware of it.

HOPE is very strongly concerned with item 14 that appears to --

1. Combine ASR & the "Coastal Water Project"
2. Give at least some water rights to Cal-Am,
3. Hand over operations to a for profit company, and
4. Create an irrevocable contract.

- HOPE most strongly opposes giving any water rights to Cal-AM, especially irrevocable water rights.
- HOPE also most strongly opposes this "camel's nose under the tent" attempt to give away public operation of water system that has been created by the District using public money.
- HOPE Finds there is no reasonable connection to the Aquifer Storage and Recovery project and any Coastal Water Project.

Please -

Retain all Water Rights, and
Retain all operations related to this facility, and
Remove any language linking this Aquifer Storage and Recovery to any Coastal Water Project.

With all due respect.

David

David Dilworth, Executive Director

Trustees 2005

Dena Ibrahim
Holly Kiefer
Ed Leeper
Vienna Merritt-Moore
Terrence Zito

Founding Trustees

Terrence Zito
Darby Worth
Ed Leeper
Robert W. Campbell
David Dilworth

Science Advisors

Dr. Hank Medwin, Ph.D.
- Acoustics
Dr. Susan Kegley, Ph.D.
- Hazardous Materials &
Pesticides
Dr. Arthur Partridge, Ph.D.
Forest Ecology

**HAND
DELIVERED**

4:50 pm
J

Marc J. Del Piero
Attorney at Law

Specializing in
Environmental & Natural Resources Law

4062 El Bosque Drive
Pebble Beach, CA 93953-3011

(831) 626-4666 Telephone/Fax
mjdel Piero@aol.com
April 18, 2005

Dear Members of the MPWMD Board:

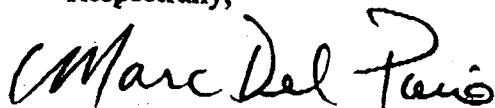
As you know I represent the Pajaro Sunny Mesa Community Services District. Approximately 30 minutes ago, I received notification of item number 14 on your agenda for this evening. Please be advised that we could not be more disappointed at not having been afforded the opportunity to comment on this project. The fact that our board has responded to every request for information that your agency has sent us for over a year apparently did not entitle us to the courtesy of a phone call regarding this permanent grant of public resources and funds to a private, for-profit agency. We hope that this is only an oversight, and that our good working relations will continue in the future. That said, please accept the following comments.

Your proposed MOA with Cal-Am is the first component of a comprehensive project that is fully subject to the California Environmental Quality Act. You have failed to properly notice this matter and you have failed to afford the public their right to participate in this broad, unprecedented and irreversible decision. Specifically paragraphs 9, 10, 11, and 12 commit your district, and by implication, your constituents to take affirmative actions under any and all circumstances to support Cal-Am's Coastal Water Project, including arguably their proposed rate increases.

By this letter, Pajaro Sunny Mesa Hereby incorporates by reference all objections and issues related to the MOA raised in the correspondence to your District from Michael Stamp on behalf of his client The Open Monterey Project which is dated April 18, 2005.

We ask that this matter be tabled and we offer to work with the District so that it can comply with CEQA and all other applicable California laws and local ordinances.

Respectfully,



Marc Del Piero





LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

April 18, 2005

Via Facsimile #644-9560

Larry Foy, Chair, and Members of the Board of Directors
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

Re: Item 14, Consideration of Proposed Memorandum of Agreement with
California American Water

Dear Chair Foy and Members of the Board:

I represent The Open Monterey Project. My client is concerned about the terms, including the language, scope and breadth, of the proposed Memorandum of Agreement.

**THE MOA COMMITS THE MPWMD FOR 20 YEARS
TO SUPPORTING CAL AM'S COASTAL WATER PROJECT**

The fifth "whereas" clause of the proposed agreement commits the MPWMD to a position supporting accelerated implements of future ASR facilities planned as part of Cal Am's Coastal Water Project. The MPWMD Board has not adopted such a position, and has not had a public hearing considering this position. Up until now, the MPWMD has appeared to be open to various solutions, including a publicly-owned project at Moss Landing. This recital suggests to the contrary: that the MPWMD has selected Cal Am, a privately-owned utility, as the preferred operator of a desalination plant. This appears to be a decisive first step in committing the District to a particular project, and it is being taken without an adequate basis under CEQA.

My client is particularly concerned about MOA Paragraphs 9, 10, 11, and 12. They commit the MPWMD, a public agency, to take affirmative actions to support Cal Am's efforts to hold water rights and to acquire permits and approvals, including those for the Cal Am Coastal Water Project. This irrevocable commitment would last 20 years.

Paragraph 21 is an arbitration agreement which is described both as condition precedent to litigation and a binding arbitration clause. This clause should be deleted in its entirety. A public agency should not forfeit its right to pursue such essential public business in open court. It is hard to imagine why the District would want to go behind closed doors with Cal-Am on a matter this significant.

April 18, 2005

Larry Foy, Chair, and Members of the Board of Directors

Page 2

THIS ACTION IS A PROJECT UNDER CEQA

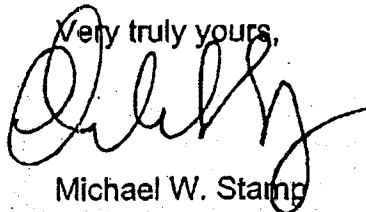
The proposed adoption of the MOA is the first significant step in an irrevocable 20-year course of action by a public agency. It would enable and require the commitment of public funds to future action to support and cooperate with Cal Am in Cal Am's Coastal Water Project efforts. By committing to a larger project now, the MPWMD action is subject to CEQA. See *City of Carmel-by-the-Sea v. Board of Supervisors of Monterey County* (1986) 183 Cal.App.3d 229 (*Mission Ranch*). In that case, the County tried to rezone some property in anticipation of development, deferring environmental review until such time as a project was proposed. The Superior Court and the Court of Appeal held that the CEQA analysis must be made when the first definitive step in the project is taken by the public agency. In that case it was the rezoning; in this case, it is the proposed agreement.

Here, MPWMD is taking a very significant step on the Cal Am project. Adopting the MOA would require the MPWMD to support Cal-Am's development project for the next 20 years, and to cooperate with specific Cal Am development projects. My client strongly objects to the lack of CEQA review for this project. CEQA review is shown as "N/A" on the staff report, without explanation.

A project as defined under §§ 15378 is the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately. If, after preliminary review, the agency determines that the activity is exempt from CEQA, the agency may file a notice of exemption. Cal. Code Regs. tit. 14, §§ 15061(d), Cal. Code Regs. tit. 14, §§ 15062. If the activity is a project and is not otherwise exempt from California Environmental Quality Act, the agency must conduct an initial study to determine whether the project may have a significant effect on the environment. Cal. Code Regs. tit. 14, §§ 15002(d)(2), Cal. Code Regs. tit. 14, §§ 15063.

In short, the agreement proposed for adoption by the Water District is a very bad idea, and it is a direct violation of CEQA. The Board should table the matter until an appropriate agreement can be drafted and considered, and until the proper CEQA steps have been followed.

Very truly yours,



Michael W. Stamp

City of Carmel-by-the-Sea

COMMUNITY PLANNING AND BUILDING DEPARTMENT

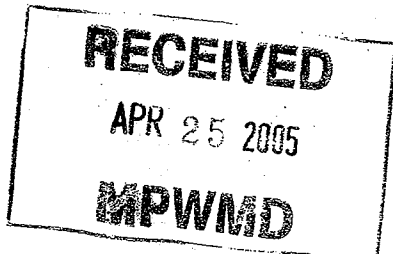
POST OFFICE DRAWER G

CARMEL-BY-THE-SEA, CA 93921

(831) 620-2010 OFFICE

(831) 620-2014 FAX

Revised 4/21/2005



6 December 2004

MPWMD
C/O David A. Berger
General Manager
5 Harris Ct.
Monterey, CA 93942

SUBJECT: FUTURE WATER NEEDS

I. Break Down

- Potential New Single Family dwellings: 69
- Potential Multi-Family Dwellings: 257
- Non-Residential Square footage: 292,351 square feet
(268,946 CC & SC)
(23,405 RC)
- *Fixtures for remodels: 11,952 fixture units (4.7 per dwelling)
- *Low Income 2nd Units: 2,453 fixture units (8.7 per secondary unit)
- Contingency: 10% of future water needs.

II. Explanation of Rationale:

Residential (R-1) District: The Housing Element of the General Plan (page 3-54) indicates that there are 69 vacant or underutilized lots in the R-1 District.

Another demand for water in the R-1 District will come from existing residences requesting new fixtures, particularly bathrooms. There are 2,825 existing residential dwellings in the R-1 District. Staff has assumed 10% of those would build low-income secondary units if water was available. Staff also assumes that the remaining 2.543 dwellings will add a new bathroom (4.7 fixture units). In all

likelihood some will add less and some will add more but this appears to be a safe assumption.

Multi-Family (R-4) District: The Housing Element of the General Plan (page 3-57) indicates that there is a potential for 165 new multi-family units to be located in the Central Commercial (CC), Service Commercial (SC), Residential and Limited Commercial (RC), and Multi-Family (R-4) Districts. The R-4 District has nearly been built out since 1999. Staff has identified the potential for approximately 35 additional units in this District. This leaves 130 units to be built in the commercial districts. No additional commercial water use is anticipated in this zone because the district does not allow construction of additional commercial space.

CC, SC, and RC Districts: There are approximately 40 acres of land within the 3 commercial districts. After subtracting land area for existing commercial square footage, hotels and motels and other constraints, staff estimates that there is approximately 9.66 acres of land for future development. Within this overall limit, each district is evaluated separately below.

Residential & Limited Commercial (RC) District: After subtracting land area for existing hotels and motels, residences, and historic resources we are left with approximately 2.65 acres of land. This figure is then multiplied by the maximum allowable floor area ratio (70%), as identified in the General Plan, to yield 1.79 acres of floor area for new housing and commercial space. Assuming that 70% of the floor area will be used for housing and 30% for new commercial space staff estimates that there will be approximately 55 new residential units and .54 acres of new commercial uses.

Central Commercial (CC) & Service Commercial (SC) Districts:

After subtracting land area for future development in the RC District, existing historic resources, and other constraints staff determined that there are 5.6 acres available for new development in these districts. The potential floor area is obtained by multiplying 5.6 acres by the maximum floor area ratio, as identified in the General Plan for these districts (135%), and equals 7.55 acres of floor area available for new housing and commercial uses. Staff has assumed that 1.05 acres will be used for new housing and the remainder for new commercial and retail uses.

I have attached a list of permitted uses for the Central Commercial (CC), Service Commercial (SC) and Residential and Limited Commercial (RC) Districts.

Additional Housing Opportunities: Staff has identified the potential for 92 additional housing units that could be located on City owned properties (Sunset Center, Public Works, etc.).

City Reserves: The City would desire to have a water reserve equal to 10% of the City's future water needs to be used for City projects, parks and for other special needs.

III. General Plan

The General Plan was last updated on 3 June 2003 and has a 20-year planning period.

IV. Housing Element

The Housing Element was last updated in July of 2003 and covers 1 July 2002 - 30 June 2007. The Element projects 69 new single family residential units and 165 new multi-family units.

V. Contact Information

Sean Conroy
Associate Planner
831-620-2010
sconroy@ci.carmel.ca.us



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WATER MANAGEMENT DISTRICT**

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FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

May 6, 2005

Sean Conroy
Associate Planner
P.O. Drawer G
Carmel-by-the-Sea, CA 93921

Dear Mr. *Conroy*:

This will serve to acknowledge receipt the April 21, 2005 revision to your December 6, 2004 letter that outlines future water needs for the City of Carmel-by-the-Sea.

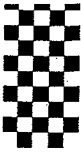
Thank you for submitting the revised estimates. I have referred your letter to our Water Demand Manager, Stephanie Pintar, for analysis and comment. A copy of the letter has also been transmitted to the District Board of Directors.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Berger".

David A. Berger
General Manager

pc: MPWMD Board of Directors
Stephanie Pintar



LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

April 22, 2005

RECEIVED

APR 21 2005

MPWMD

Via Facsimile #644-9560

Larry Foy, Chair, and Members of the Board of Directors
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942

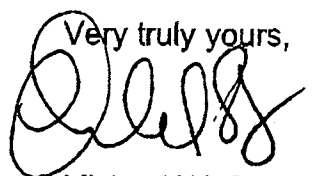
Re: Proposed "Impact Based" Water Distribution System Permit Review
System (Conceptual Ordinance No. 123)

Dear Chair Foy and Members of the Board:

I represent The Open Monterey Project and other clients concerned about the responsible water supply management on the Monterey Peninsula. My clients are concerned about the proposed "Impact Based" Water Distribution System Permit Review System. My clients might support, in concept, the proposed improved fee arrangements for water distribution systems. However, I mention here two specific aspects of concern: (1) the proposal to exempt certain wells in certain locations from environmental review, and (2) the proposal to allow permit waivers and ministerial permits for certain water distribution systems.

The proposed ordinance is a project that may have significant effects on the environment, and therefore must have proper review under CEQA. A project as defined under CEQA Guidelines § 15378 as the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately. If, after preliminary review, the agency determines that the activity is exempt from CEQA, the agency may file a notice of exemption. Cal. Code Regs. tit. 14, §§ 15061(d), Cal. Code Regs. tit. 14, §§ 15062. If the activity is a project and is not otherwise exempt from California Environmental Quality Act, the agency must conduct an initial study to determine whether the project may have a significant effect on the environment. Cal. Code Regs. tit. 14, §§ 15002(d)(2), Cal. Code Regs. tit. 14, §§ 15063.

Please put my office on the notification list of every MPWMD action for this matter, including meetings and environmental review. Thank you.

Very truly yours,

Michael W. Stamp



RECEIVED

CARMEL VALLEY ASSOCIATION
(formerly Carmel Valley Property Owners' Association)
P.O.Box 157 Carmel Valley CA 93924

APR 25 2005

April 24, 2005

MPWMD

MPWMD

Fax: 644-9560

Attn: Director Alvin Edwards

Dear Director Edwards:

Many of us in the CVA are sympathetic to your call for a ballot measure proposing public acquisition of the Cal-Am Water Co.

However, I do not believe that any voter can evaluate such a proposal without some idea of the costs and where the money would come from, including the programs required by the State, namely:

Remediation of San Clemente Dam and a new water supply project to replace 10,000 AFY from the Carmel River. Presumably we can approximate costs for the water supply project based on the Sand City desal and AS & R, but not even the DWR has any idea of what San Clemente dam will cost

Secondly, if Cal-Am comes up with a price of \$X, who will determine, in advance of the ballot measure, what is a "fair" price? The CPUC?

We would much appreciate your help in answering these questions on or before the Board Meeting on May 16th.

Mail to CVA's Box 157 is not regularly picked up, so please acknowledge receipt of this letter to me by e-mail at rgreenwood@aol.com Thank you,

Robert Greenwood



MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

May 6, 2005

Robert Greenwood
Carmel Valley Association
P.O. Box 157
Carmel Valley, CA 93924

Dear Mr. Greenwood:

This will serve to acknowledge receipt of your letter of April 24, 2005, in which you asked questions related to a proposal by Alvin Edwards that the District sponsor a ballot measure on the purchase of local California American Water facilities. Copies of your letter have been forwarded to Director Edwards and other members of the Board of Directors.

Sincerely,

A handwritten signature in black ink, appearing to read "D.A. Berger".

David A. Berger
General Manager

pc: MPWMD Board of Directors
Andy Bell
Henrietta Stern



21
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404-6528

April 26, 2005

In response reply to:
151422SWR05SR00220:JMA

RECEIVED

MAY -2 2005

MPWMD

Alana Knaster, Chief Assistant Director
Monterey County Planning and Building Inspection Department
2620 First Avenue
Marina, California 93933

Dear Ms. Knaster:

Thank you for the opportunity to comment on the Draft Revised Environmental Impact Report (DREIR) (dated December, 2004) for the September Ranch Subdivision Project received by NOAA's National Marine Fisheries Service (NMFS) on February 14, 2005. The DREIR concerns potential environmental impacts associated with the implementation and development of the September Ranch Subdivision project located in the Carmel Valley, Monterey County, California. The DREIR was prepared to comply with the California Environmental Quality Act (CEQA) and includes an evaluation of project impacts on biological resources, cultural resources, water quality, air quality, geology, and other issues.

The proposed project involves the subdivision of 891 acres into 94 market rate residential lots, 15 units of inclusionary housing, and a 20.2-acre lot for an existing equestrian facility; 782.8 acres are proposed as open space. Other appurtenant facilities and uses would include separate systems for the distribution of potable water, water tanks for fire suppression, a sewage collection and treatment system, wastewater treatment system, drainage system, internal road system, common open space, *et cetera*. Site improvements would require approximately 100,000 cubic yards of grading and tree removal. The project would require a waiver of County of Monterey regulations prohibiting development on slopes in excess of 30 percent to allow for construction of internal access roads.

The Carmel River contains populations of South-Central California Coast (S-CCC) Evolutionarily Significant Unit (ESU) steelhead trout (*Oncorhynchus mykiss*) listed as a threatened species on 18 August, 1997 (62 FR 43937), pursuant to the Federal Endangered Species Act (ESA) of 1973, as amended. Regulations deemed necessary and advisable for their conservation were adopted under section 4(d) of the ESA and went into effect on 8 September, 2000. The NMFS review of the DREIR is focused primarily on the adequacy of proposed alternatives and mitigations to protect S-CCC ESU steelhead throughout all stages of their life history.



The Carmel River aquifer is currently over-allocated such that the California State Water Resources Control Board (SWRCB Order 95-10) ordered the California-American Water Company (Cal-Am) to immediately desist diverting any water in excess of 14,106 acre feet (AF) from the Carmel River. Order 95-10 limits Carmel River diversions to 11,285 AF per year. The SWRCB designated the Carmel River as fully appropriated during the May 1 through December 31 period (SWRCB Order 98-08). The consequence of the excessive use of waters from the Carmel River and its aquifer is that surface flows do not reach the Carmel River lagoon in most years during the summer. Lack of adequate flows continues to result in yearly kills of juvenile S-CCC steelhead and extensive fish rescue efforts.

The DREIR evaluates the availability of a water supply for the September Ranch Project along with the impact of using that water supply on other water rights holders and on the environment. The DREIR suggests the September Ranch parcel is located over an aquifer that has very limited hydrological connectivity to the adjacent Carmel Valley Aquifer. What hydrologic connectivity exists is referenced as "reject recharge" which consists of water moving from the September Ranch Aquifer to the Carmel Valley Aquifer. It is anticipated that water use for the proposed project will result in a water demand of 57.90 acre-feet of water per year from the September Ranch aquifer and the rate of recharge, even in drought years exceeds anticipated water usage. However, NMFS is concerned that during a prolonged drought period, under post-project conditions, the quantity of "reject recharge" will be reduced.

Any additional reduction of flow into the Carmel River is of concern to NMFS. NMFS (2002) has provided recommendations regarding necessary flows in the Carmel River to protect steelhead. NMFS' recommendations were based on maintaining conditions to conserve and restore both surface and subterranean flows in the Carmel River. However, the restoration and protection of stream flows in this river can not be accomplished unless objective minimum standards are followed, including standards set outside of the low flow period. It appears the DREIR did not take into account NMFS' (2002) recommendations regarding the November through May period. The DREIR should explain how NMFS' bypass flow recommendations apply to the new proposed diversions and comport to our instream flow requirements.

Additional reductions of flow into the Carmel Valley Aquifer will likely lead to additional significant adverse effects to S-CCC steelhead and exacerbate water quality/quantity conditions in a heavily over-allocated watershed. If "reject recharge" under post-project conditions results in further depletion of water in the Carmel Valley Aquifer and subsequently negatively affects S-CCC steelhead, NMFS advises that this is a significant adverse effect. In this situation a section 10 incidental take permit, pursuant to the ESA, would be required in order to authorize take of S-CCC steelhead or adverse modification to their proposed critical habitat. Please contact NMFS to ensure compliance with Federal ESA regulations.

-3-

Thank you for your cooperation in the matter. If you have questions or concerns regarding this letter, please contact Mr. Jonathan Ambrose of my staff at (707) 575-6091 or via email at jonathan.ambrose@noaa.gov.

Sincerely,



Dick Butler
Acting Santa Rosa Area Supervisor
Protected Resources Division

cc:

Kevan Urquhart, California Dept. Fish and Game, Monterey
David Berger, Monterey Peninsula Water Management Dist., Monterey
Jacob Martin, USFWS, Ventura

Literature Cited

National Marine Fisheries Service. 2002. Instream flow needs for steelhead in the Carmel River: Bypass flow recommendations for water supply projects using Carmel River waters. Southwest Region – Santa Rosa Field Office. June 3. 49 p.



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May 6, 2005

Dick Butler
Protected Resources Division
National Marine Fisheries Service
777 Sonoma Avenue, Room 325
Santa Rose, CA 95404-6528

Dear Mr. Butler:

This will serve to acknowledge receipt of a copy of your letter of April 26, 2005 to Alana Knaster regarding the Draft Revised Environmental Impact Report for the September Ranch Subdivision Project. I appreciate you bringing this matter to the District's attention. Copies of the letter have been distributed to the appropriate District staff members and to the Board of Directors.

Sincerely,

A handwritten signature in black ink, appearing to read "D.A. Berger".

David A. Berger
General Manager

pc: MPWMD Board of Directors

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 942360001
(916) 653-5791

**RECEIVED**

MAY - 4 2005

MPWMD

APR 29 2005

Mr. David A. Berger, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, California 93942-0085

San Clemente Dam, No. 642
Monterey County

Dear Mr. Berger:

This is in reply to your letter of February 16, 2005 requesting that the Monterey Peninsula Water Management District (MPWMD) be included as a regular member of the project management team to develop the Environmental Impact Report / Environmental Impact Statement (EIR/EIS) for the San Clemente Dam Seismic Retrofit Project (SCDSRP).

We acknowledge that MPWMD's expertise in fisheries and watershed management of the Carmel River, as well as its history with the SCDSRP, would be valuable assets in developing certain parts of the EIS/EIR.

The Core Team presently consists of the U.S. Army Corps of Engineers and the California Department of Water Resources acting as Lead Agencies under the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), respectively. As project proponent and the owner of the dam, the California-American Water Company is also part of this team. Since initiation of the EIR/EIS process last year, the Core Team has been meeting on its own, and at times, with other agencies.

For this project, under CEQA, MPWMD is considered a "Responsible Agency," which is equivalent to the NEPA "Cooperating Agency" roles served by the National Oceanic and Atmospheric Administration Fisheries and the U.S. Fish and Wildlife Service. As a Responsible Agency, MPWMD will have opportunities to participate in selected interagency meetings and provide input into EIR/EIS documentation. Your agency will be invited to meetings concerning issues that the Lead Agencies believe could benefit from the MPWMD's expertise and experience.

We thank you for your interest and look forward to working with you on this complex and challenging project.

Mr. David A. Berger

APR 29 2005

Page 2

If you have any questions or need additional information, you may contact Design Engineer Vic Nguyen at (916) 227-0534 or Project Engineer Y-Nhi Enzler at (916) 227-4624.

Sincerely,



David A. Gutierrez, Chief
Division of Safety of Dams

cc: Mr. Steven Leonard
California-American Water Company
50 Ragsdale Drive, Suite 100
Monterey, California 93940

Ms. Jan Driscoll
California-American Water Company
50 Ragsdale Drive, Suite 100
Monterey, California 93940

Ms. Paula Landis
San Joaquin District
3374 East Shields Avenue
Fresno, California 93726-6913

Ms. Phelicia Thompson
U.S. Army Corps of Engineers
Regulatory Branch
333 Market Street, 8th Floor
San Francisco, California 94105-2197

Mr. Jeremy Pratt
Entrix, Inc.
2701 First Avenue, Suite 500
Seattle, Washington 98121



MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5600
FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

May 6, 2005

David A. Gutierrez
Chief, Division of Safety of Dams
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94235-0001

Dear Mr. Gutierrez:

This will serve to acknowledge receipt of your letter of April 29, 2005 outlining your determination that the District should not be included as a regular member of the project management team to develop the Environmental Impact Report/Environmental Impact Statement for the San Clemente Dam Seismic Retrofit Project. I understand that the District is considered a "Responsible Agency" and will be invited to interagency meetings at the discretion of the Lead Agencies.

Thank you for the letter. Copies will be provided to the Board of Directors and planning staff.

Sincerely,

A handwritten signature in black ink, appearing to read "D.A. Berger".

David A. Berger
General Manager

pc: MPWMD Board of Directors

Anthony L. Lombardo
 Jeffery R. Gilles
 Derinda L. Messenger
 James W. Sullivan
 Jacqueline M. Zischke
 Steven D. Penrose*
 E. Soren Diaz
 Sheri L. Damon
 Virginia A. Hines
 Patrick S.M. Casey
 Paul W. Monctef
 Bradley W. Sullivan
 Miriam Schakof
 Kelly McCarthy Sutherland

Lombardo
 & Gilles
 PROFESSIONAL CORPORATION
 Attorneys At Law

**HAND
 DELIVERED**

318 Cayuga Street
 P.O. Box 2119
 Salinas, CA 93902-2119
 831-754-2444 (SALINAS)
 888-757-2444 (MONTEREY)
 831-754-2011 (FAX)

225 Sixth Street
 Hollister, CA 95023
 831-630-9444

APR 29 2005

MPWMD

File No. 00584.000

*Certified by the State Bar of
 California Board of Legal
 Specialization as a Specialist in
 Estate Planning, Trust and
 Probate Law.

April 29, 2005

Monterey Peninsula Water Management District
 Board of Directors
 5 Harris Court, Building G
 Monterey, CA 93940

Re: **APN 169-131-002 and 003;**
Storage Pro Self Storage Facility

Dear Chair Foy and Members of the Board:

This letter serves to appeal the decision of the General Manager that Special Circumstances do not apply to the applicant's self storage facility proposed in Carmel Valley. A check in the amount of \$500.00 is enclosed to cover the cost of the application fee. I have also enclosed a copy of the applicant's request to the General Manager for Special Circumstances (enclosed as Exhibit "A").

District Staff instructed the applicant's representative to prepare a report similar to that prepared for the General Store and Gas Station in Carmel Highlands. That report includes 24 months of historic water use for the single existing facility (enclosed as Exhibit "B"). The Carmel Highlands report did not contain any information or analysis that is substantially difficult from that submitted for Mr. Mirabito's project. The Mirabito report contained exactly what Staff requested (enclosed as Exhibit "C").

Notwithstanding that the applicant provided an engineering report that included documentation that water use at other self storage facilities was less than that estimated by using the District's factor, District Staff stated that Special Circumstances did not apply to this project because the applicant did not submit information on enough facilities over a long enough period of time. Mr. Mirabito provided information for six locations over a one year period, whereas the Highlands Gallery only provided information for only one location over a period of two years.

The CDM Storage Facility Report focused on interior water use and not irrigation requirements because the District Rules require a landscape architect to estimate irrigation water demand for commercial facilities. The report concludes that the total annual water demand (including the

Monterey Peninsula Water Management District
Board of Directors
April 28, 2005
Page 2

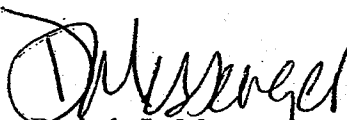
landscape architect's estimate) for the proposed facility would be 0.174 acre feet per year, as compared to using the District's factor which estimates water use at 0.629 acre feet annually.

CDM's engineering report is based on historical water use at six other similar facilities in California, and are clearly accurate and reliable. Staff's decision to disregard the information supplied by CDM and its conclusion that the District's factor is an appropriate measurement of the potential water demand is clearly inconsistent with District Rule 24(g) which states that the adjustment shall be based on historical use or other hard documentation, such as been supplied by CDM.

Accordingly, on behalf of Mr. Mirabito, I respectfully request that the Board make a finding of Special Circumstances regarding water demand for the storage facility and approve a permit for the water use estimated by CDM, the project hydrologic engineer.

Respectfully submitted,

LOMBARDO & GILLES, PLC



Derinda L. Messenger

DLM:js

cc: Client



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
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May 6, 2005

Derinda L. Messenger
Lombardo & Gilles
P.O. Box 2119
Salinas, CA 93902-2119

Dear Ms. Messenger:

This will serve to acknowledge receipt of your letter of April 29, 2005, in which you appeal the decision of the General Manager that Special Circumstances do not apply to the Storage Pro Self Storage Facility proposed in Carmel Valley.

I have referred your letter to Stephanie Pintar, Water Demand Manager, for analysis and comment. You can expect that I will write you again in approximately two weeks with our response; or I will provide you an estimate of when I'll be able to do so if the substance of your letter requires additional time for response.

Sincerely,

A handwritten signature in black ink, appearing to read "D.A. Berger".

David A. Berger
General Manager

Cc: MPWMD Board
Stephanie Pintar



SANDRA SHEWRY
Director

State of California—Health and Human Services Agency
Department of Health Services
Northern California Drinking Water Field Operations Branch
Monterey District



35

ARNOLD SCHWARZENEGGER
Governor

May 2, 2005

Mr. David Berger, General Manager
Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942-0085

Dear Mr. Berger:

RE: Requirements for the Permitting of the Santa Margarita Well ASR

In response to your inquiry, the Department is providing this letter to clarify the Department's requirement for a long-term agreement between California-American Water Company (CalAm), Monterey system, and your District regarding the use of the Santa Margarita Well, as specified in letters dated August 15, 2003, and July 20, 2004.

Under the Safe Drinking Water Act, Health & Safety Code Section 116555, public water systems are required to provide a *reliable* and *adequate* supply of pure, wholesome, healthful, and potable water. The California Waterworks Standards Section 64564 further clarifies how to determine the needed source capacity for a water system. The District has assisted CalAm to meet these requirements in light of the State Water Resources Control Board Order No. 95-10 by developing and studying the effectiveness of the use of an aquifer storage and recovery (ASR) project, with the Santa Margarita Well constructed as the initial phase of this project. CalAm has submitted a permit application dated May 21, 2003, to allow the use of the water produced by the Santa Margarita Well. It was specified in the application that ownership of the well would be retained by the District. CalAm has already demonstrated their reliance on the Santa Margarita Well during July 2004 by requesting interim approval for the emergency use of the well to prevent system outages during the high demand period of late summer to early fall.

To ensure that CalAm has the ability to conduct long range planning of their water supply resources to comply with Section 116555, the Department has required a long-term agreement between CalAm and the District to formalize the commitment of the District to provide water to CalAm from the Santa Margarita Well. This agreement was required by the Department as part of the documentation needed to accompany the permit application submitted by CalAm for the use of the water produced by the well, and would be required of any other water system that relied on a supply source owned by another agency. The Department does not consider a year-to-year agreement between CalAm and the District as suitable to allow CalAm to comply with Section 116555. Considering the political and regulatory hurdles of potential long-term water supply projects, including the development and construction of a desalination project and/or development of a recycled water groundwater recharge project component, in the Department's opinion it is feasibly ten to fifteen years before these projects will be in place and able to effectively offset the reduction of the Carmel River flows required under Order No. 95-10. As such, the Department considers a 20-year term acceptable and would not deem any agreement as being satisfactory if it was less than a 15-year commitment.

The Department is committed to responding promptly to all permit requests. However, all of the documentation needed to finalize the permit for CalAm has not yet been submitted, including the long-term agreement between CalAm and the District. Once all of the documentation is received, it would take at least two months for Department staff to issue the final permit approving the use of the Santa Margarita Well in the CalAm system. **Please be advised that the Department will not grant further interim approvals to operate the Santa Margarita Well in the absence of a domestic water supply permit.**

If you have any questions regarding this matter, please contact Jan Sweigert or me at (831) 655-6939.

Sincerely,



Betsy S. Lichti, P.E.
District Engineer, Monterey District
DRINKING WATER FIELD OPERATIONS BRANCH

cc: Monterey County Environmental Health Department
Steven Leonard, CalAm-Monterey
California Public Utilities Commission



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WATER MANAGEMENT DISTRICT**

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FAX (831) 644-9560 • <http://www.mpwmd.dst.ca.us>

May 6, 2005

Betsy Lichti
Department of Health Services
1 Lower Ragsdale, Building 1, Suite 120
Monterey, CA 93940-5741

Dear ~~Ms. Lichti~~ *Betsy*

This will serve to acknowledge receipt of a copy of your letter to Steve Leonard dated April 22, 2005, advising California American Water Company that Scarlett Well #8 must be taken out of service due to coliform contamination.

I appreciate your bringing this matter to the District's attention. I have forwarded copies of this letter to District staff member Joe Oliver. He will confer with Steve Leonard on this issue. The Board of Directors will also receive a copy of your letter.

Again, thank you for contacting me on this subject.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Berger".

David A. Berger
General Manager

pc: MPWMD Board of Directors
Joe Oliver
Darby Fuerst