



**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 11/21/05 MPWMD BOARD PACKET

Attached are copies of letters received between October 7, 2005 and November 8, 2005. These letters are also listed in the November 21, 2005 Board packet under item 20, Letters Received.

Author	Addressee	Date	Topic
Katherine Mrowka	MPWMD	10/3/05	Compliance with Temporary Permit 21168 (Application T031531) of MPWMD to Divert Water from the Carmel River
Timothy Daniels	MPWMD	10/7/05	Connection Fee due for APN 416-082-019 <i>Also attached is 10/13/05 response from David A. Berger.</i>
Bob Mattson Kirk Haines Glenn Fidler	MPWMD	10/12/05	October 17, 2005 Appeal of District Staff's Decision that Rule 24-G, Special Circumstances, Do Not Apply to Storage Pro Self Storage Facility (Mirabito), APNs: 169-131-002 & 003
Stuart L. Somach	SWRCB	10/24/05	Application T031593 Requesting Temporary Permit to Divert from the Carmel River



State Water Resources Control Board



1

Alan C. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

OCT 03 2005

In Reply Refer
to:334:MAS:T031531

RECEIVED

OCT 07 2005

MPWMD

Monterey Peninsula
Water Management District
c/o Andrew Bell
P.O. Box 85
Monterey, CA 93942

Dear Mr. Bell:

COMPLIANCE WITH TEMPORARY PERMIT 21168 (APPLICATION T031531) OF
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT TO DIVERT WATER
FROM THE CARMEL RIVER

On August 30, 2005, the State Water Resources Control Board, Division of Water Rights (Division), received a letter from Monterey Peninsula Water Management District (MPWMD) regarding Permit 21168 (Application T031531). In the letter, MPWMD demonstrated compliance with term 10 of the permit. Division staff noted that MPWMD diverted 1.22 acre-feet more water from the Carmel River than allowed in the permit. Please be advised that MPWMD will be responsible for compliance with any terms and conditions of future permits issued to MPWMD.

If you have any questions, please contact Megan Sheely at (916) 341-5438 or by e-mail at msheely@waterboards.ca.gov.

Sincerely,

Katherine Mrowka, Chief
Watershed Unit 3

California Environmental Protection Agency

Recycled Paper

**RECEIVED**

OCT 12 2005

Timothy & Margo Daniels
11730 Camino Escondido Carmel Valley, California 93923**MPWMD**

October 7, 2005

Monterey Peninsula Water Management District
Post Office Box 85
Monterey, CA 93942-0085

Attention: Mr. David Berger

Subject: Connection Fee Due for APN 416-082-019

Dear Mr. Berger,

I recently received a notice for a water connection fee. It is my understanding that my water permit was issued in error, on February 19, 2004, and not charged properly. I also understand that this relates to a procedure that dates back to 2001. My well has been in existence since May of 1987, with periodic use. My first well report was sent to your office in 1993.

My request is that I be exempt from the 2001 mandate that requires a connection fee to ones own well, as I was using the well prior to that time. The \$1,500 plus fee that you are asking for, comes as a complete surprise to my wife and I. I would hope that we will not be required to pay for something we have not budgeted for. Your consideration on this particular case would be greatly appreciated.

Sincerely,

Tim Daniels



**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>

October 13, 2005

Tim Daniels
11730 Camino Escondido
Carmel Valley, CA 93923

Dear Mr. Daniels:

This will serve to acknowledge receipt of your letter of October 7, 2005 regarding your request that you be exempt from the 2001 mandate that requires a connection fee to one's own well.

I appreciate your bringing this matter to the District's attention. Because I'm not presently familiar with the subject matter you describe, I have referred your letter to Stephanie Pintar, Water Demand Division 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.

Again, thank you for writing to me on this subject.

Sincerely,

David A. Berger
General Manager

Cc: Chair/Board of Directors
Stephanie Pintar, Water Demand Manager

Copy to Stephanie 10/19/05 5

Received at 10/17/05 Board Meeting

WE ARE BUSINESS OWNERS AT THE FARM CENTER, CARMEL VALLEY, WHICH ADJUTS THE MIRABITO STORAGE FACILITY SOON TO BE BUILT.

WHEN THIS PROJECT WAS APPROVED HE AGREED TO BUILD IN TWO STAGES. MR. MIRABITO SHOULD BE HELD TO THE TERMS OF THAT AGREEMENT.

THE CONSTRUCTION OF THIS ENORMOUS FACILITY IN ONE STEP WOULD ADVERSELY EFFECT OUR BUSINESSES AND TRAFFIC ON CARMEL VALLEY ROAD.

RECEIVED
OCT 12 2005
MPWMD

Bob Mattson - Bob Mattson Seddley

Kirk Faires - CHARONNAY ART GALLERY

Glenn Fidler - Glenn Fidler Ensemble Productions.

BOB MATTON
24004 ROBINSON CYN. RD.
CARMEL, CA. 93923

SOMACH, SIMMONS & DUNN

C: JD, DF, HS, AB

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

813 SIXTH STREET
THIRD FLOOR
SACRAMENTO, CA 95814-2403
(916) 446 7979
FACSIMILE (916) 446-8199
WEBSITE: www.lawssd.com

RECEIVED

OCT 24 2005

October 24, 2005

MPWMD

HAND DELIVERED and VIA FACSIMILE

State Water Resources Control Board
Division of Water Rights
1001 "I" Street, 14th Floor
Sacramento, CA 95814

Re: Application T031593 Requesting Temporary Permit to Divert from the
Carmel River

Dear Sir or Madam:

This letter is submitted as California American Water's ("Cal-Am") comments on the above-referenced application by the Monterey Peninsula Water Management District ("MPWMD") for a temporary urgency permit to divert from the Carmel River. Cal-Am's comments are as follows:

1. Cal-Am supports the continuation of the pilot ASR Project.
2. Cal-Am *protests* the granting of a permit under this application to the extent that the granting of the permit will, in any way, provide the basis for granting the petitions to change Permit 7130B (Application 11674B) that are referred to in the Notice. Cal-Am has protested this change petition and believes that reference to the change petition in the Notice on Application T031593 in the context of a speculative "full-scale, permanent Seaside Basin injection and recovery project" is inappropriate and prejudices the State Water Resources Control Board's ("SWRCB") deliberation on the change petition and Cal-Am's protest to it. Moreover, the reference may also prejudice the processing of Cal-Am's competing applications for an ASR project, referenced elsewhere in this letter.
3. Cal-Am questions the appropriateness of utilizing a temporary urgency permit for this purpose. This is the ninth application and, if granted, will be the ninth "temporary urgency" permit on the ASR pilot program. This application and the SWRCB's process is nothing more than the continuation of a piece-mealed, long-term project which began in 1998. Under no rational definition can what is occurring be called "temporary." Moreover, it is difficult to understand how anything that has occurred for nine years at all fits the definition

10

State Water Resources Control Board
Re: Application T031593
October 24, 2005
Page 2

of "urgent need" found within Water Code section 1425(c). Again, as I have noted in prior years, it may be most appropriate to, at this time, consider utilizing Cal-Am's applications to appropriate water as the best vehicles to support the ASR pilot and long-term programs.

4. Cal-Am questions the appropriateness of MPWMD being the permittee with respect to any ASR program since it neither owns nor operates any of the relevant diversion or conveyance facilities nor is it able itself to put water to reasonable beneficial use. (See, e.g., 23 CCR § 732(b).) At a minimum, Cal-Am should be a co-permittee on any permit that may be issued pursuant to the subject application. Cal-Am may not agree to the utilization of its facilities for the purposes of this project without some assurance of an "ownership" interest in the water being diverted.

5. The SWRCB should consider as part of the instant process or in any related process the benefit of Cal-Am being the water right applicant. Cal-Am's existing applications, or one of them, could be utilized for this purpose. This appears to be the best way to proceed for the following reasons:

- The ASR program has, at its foundation, a desire to legalize Cal-Am's diversion of water from the Carmel River.
- Cal-Am owns and operates all of the diversion facilities associated with an ASR program.
- Cal-Am owns and operates all of the conveyance facilities associated with an ASR program.
- Cal-Am will need to assist MPWMD financially if the needed facilities within the Seaside Groundwater Basin are to be constructed in a timely manner. This is particularly true with respect to long-term project facilities.
- It is only Cal-Am who will put water to reasonable beneficial use through delivery to its customers. (23 CCR § 732(b).)

6. Since the granting of MPWMD's 2002 temporary "urgency" permit, the SWRCB rejected MPWMD's petition to transform its permits for on-stream storage into permits for an ASR project. It appears, based upon a review of the reasons for the SWRCB's rejection of the petition, that the petition cannot be corrected. Accordingly, MPWMD cannot proceed with a long-term ASR project. Again, Cal-Am's existing applications, or one of them, could be utilized for this purpose and this should be contemplated as part of the current process. In any event, if a permit is issued, it should contain a condition or term that states that the granting of these urgency permits in no way provides MPWMD with a priority or guarantee in the issuance of any long-term permit for an ASR project from the Carmel River

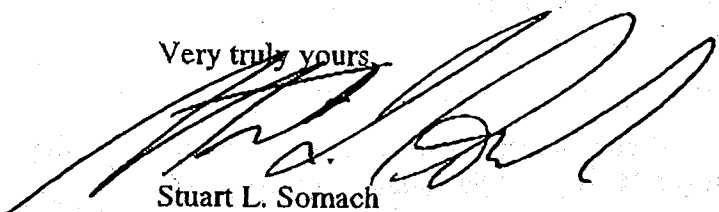
State Water Resources Control Board
Re: Application T031593
October 24, 2005
Page 3

and that the priority of existing Cal-Am applications shall not be affected by the granting of this temporary permit.

7. Since the granting of MPWMD's 2002 temporary urgency permit, an adjudication of the Seaside Groundwater Basin has been initiated: *California American Water v. City of Seaside, et al.*, Monterey Superior Court, Case No. M66343. Among other things, storage, such as is proposed here, is at issue in this litigation. The SWRCB should defer, in this regard, to that judicial process. Moreover, MPWMD has made representations in various forums of its ability to claim and reclaim water subject to these temporary permits outside of the 180 days contained within the permits that are issued. It is our understanding that this is contrary to the SWRCB's direction to MPWMD. The SWRCB should clarify its position and provide clear direction to MPWMD on this question.

In the past, Cal-Am has raised these issues with MPWMD but, to date, Cal-Am and MPWMD have been unable to satisfactorily resolve their differences on how best to proceed. The current SWRCB process could be utilized to facilitate further discussion between Cal-Am and MPWMD in this regard.

Very truly yours,



Stuart L. Somach
Attorney

SLS:sb

Atch. (Proof of Service)

cc: Andrew Bell, MPWMD
Megan Sheely, SWRCB

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 813 Sixth Street, Third Floor, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

On October 24, 2005, I served the following document(s):

**Comment Letter dated October 24, 2005,
Re: Application T031593 Requesting Temporary Permit to Divert from the Carmel River**

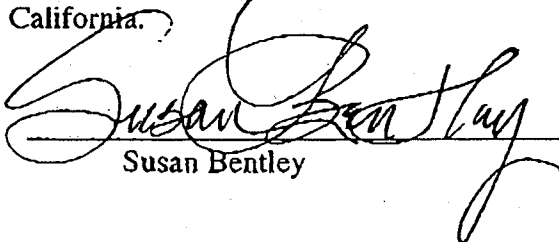
X (by mail) on all parties in said action, in accordance with Code of Civil Procedure §1013a(3), by placing a true copy thereof enclosed in a sealed envelope, with postage fully paid thereon, in the designated area for outgoing mail, addressed as set forth below.

AND

X Via facsimile transmission.

Monterey Peninsula Water Management District c/o Andrew Bell P.O. Box 85 Monterey, CA 93942-0085 FAX: (831) 644-9560	Division of Water Rights c/o Megan Sheely P.O. Box 2000 Sacramento, CA 95812-2000 FAX: (916) 341-5400
--	---

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 24, 2005, at Sacramento, California.



Susan Bentley