



**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 09/17/07 MPWMD BOARD PACKET

Attached are copies of letters received between August 10, 2007 and September 7, 2007. These letters are also listed in the September 17, 2007 Board packet under item 21, Letters Received.

Author	Addressee	Date	Topic
Victoria A. Whitney	David A. Berger	8/6/07	CAW Applications 30215A, 30215B, 20644 and 30715 and MPWMD Permits 7130B and 20808 (Applications 11674B and 27614), Carmel River in Monterey County, 262.0 (27-01)
Mark Stilwell	David A. Berger	8/17/07	Withdrawal of Letter Dated July 27, 2007
Michael A. Stamp	Michael Stamp	8/20/07	Initial Study/Negative Declaration for Proposed Ordinance 130



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

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

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AUG 10 2007

MPWMD

In Reply Refer to:334:
KDM: 262.0 (27-01)

California-American Water Company
c/o Sandra Dunn
Somach, Simmons & Dunn
813 Sixth Street
Sacramento, CA 95814

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

Dear Ms. Dunn and Mr. Berger:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) APPLICATIONS 30215A, 30215B, 20644 AND 30715 AND MONTEREY PENINSULA WATER MANAGEMENT DISTRICT (DISTRICT) PERMITS 7130B AND 20808 (APPLICATIONS 11674B AND 27614), CARMEL RIVER IN MONTEREY COUNTY, 262.0 (27-01)

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued a letter on June 7, 2006, regarding compliance with Order WR 95-10 and water project development by Cal-Am and the District. During a June 21, 2006 meeting with District staff and Cal-Am, the Division agreed to withdraw the letter. Cal-Am's July 24 letter sought confirmation that the June 7 letter was withdrawn. The letter is withdrawn, but there are a number of items in the letter that must still be addressed. Consequently, they were addressed during the June 21 meeting and are also addressed herein.

During the meeting, the District was asked whether it is pursuing any projects other than the Aquifer Storage and Recovery Project. General Manager David Berger confirmed that this is the only project under development. The District plans to rely on desalinated water when Carmel River water is not available.

Mr. Berger indicated that the District has not been developing the project proposed in its April 19, 2002 petitions to directly divert and divert to underground storage 7,909 acre-feet per annum (afa) of water pursuant to Permits 7130B and 20808. Mr. Berger stated he would recommend that the District Board withdraw the 7,909 afa petition or, alternatively, Cal-Am could take the lead under the District's water rights to pursue this petition. A status report is requested within the next 30 days on this item. If no further action is taken to pursue the petitions within 60 days, the Division will cancel the petitions on the basis of failure to provide information needed to process the petitions. (Wat. Code § 1701.3.) The District has not prepared a California Environmental Quality Act document for the petitions.

The District filed petitions dated September 12, 2003, to change Permits 7130B and 20808 to divert Carmel River water to offstream storage in the Seaside groundwater basin. The petitions described a phased project, with a phase one size of 2,022 afa and eventual size of 7,300 afa. During the meeting, the District clarified that it is currently only pursuing the first phase of the project. This letter confirms that the Division is only processing a petition for the first phase of the project. The remaining petition elements are considered withdrawn.

California Environmental Protection Agency

Sandra Dunn
David A. Berger

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AUG - 6 2007

The District agreed during the meeting to file petitions for extension of time for Permits 7130B and 20808. The District filed the required petitions on August 4, 2006. The District must show cause for extension of time pursuant to California Code of Regulations (CCR) section 844. A showing of cause is required to be submitted within the next 30 days. Please include only information relevant to developing the permitted project. Failure to demonstrate cause for extension will result in petition denial.

Cal-Am filed a complaint with the Division on November 3, 2005 regarding the District's non-use under Permits 7130B and 20808. Although Cal-Am agreed to withdraw the complaint in the March 30, 2006 Agreement between Cal-Am and the District, Cal-Am advised the Division during the meeting that it has not yet withdrawn the complaint. It appears that complaint dismissal based on the Agreement is appropriate. Unless the Division is advised to the contrary within the next 30 days, the Division will assume that Cal-Am agrees that no further action is required on the complaint and the complaint is considered closed.

The Division has no record of a water right for storage at San Clemente Dam. It is our understanding that storage at this facility is being restricted pursuant to requirements of the Division of Safety of Dams. If, however, any unauthorized storage is occurring or will occur in the future as a result of dam buttressing and subsequent refill, Cal-Am's unauthorized storage may be subject to Administrative Civil Liability pursuant to Water Code section 1052.

Cal-Am has pending Applications 30215A, 30215B, 30644 and 30715. Applications 30215A and 30215B, combined, request authorization to directly divert 46.71 cfs. Application 30644 requests authorization to divert 21 cfs and collect 24,800 afa to storage. Application 30715 requests authorization to directly divert 16.1 cfs. With the exception of Application 30215A, the applications conflict with the Declaration of Fully Appropriated Streams (Declaration). By letter dated December 17, 1999, Cal-Am requested that the State Water Board lift the Declaration that the Carmel River is fully appropriated in order to process Cal-Am's applications. The Division's January 21, 2000 response accepted the December 17 letter as a petition for modification of the Declaration and agreed to hold the matter in abeyance as requested by Cal-Am. Cal-Am was informed at that time that all petitions to modify the Declaration must be accompanied by the information specified in CCR section 871, subdivision (c)(1). The Division also advised Cal-Am that it would be expected to furnish information to address section 871 prior to activating the petition. The practical effect of this action was that Cal-Am was not required to amend its applications to conform them to the limited four-month season of availability listed in the Declaration.

Cal-Am is requested to: (a) submit the information required by section 871 within the next 30 days, or (b) revise the applications to conform to the Declaration. The information is requested pursuant to Water Code section 1275. Cal-Am is advised that failure to either show cause for revision of the Declaration or revise the applications to conform to the Declaration will result in application cancellation without further notification for Applications 30215B, 30644 and 30715.

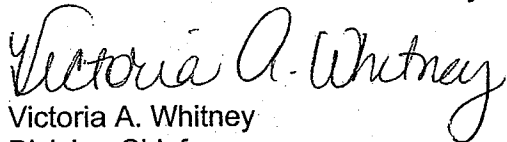
Sandra Dunn
David A. Berger

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Katherine Mrowka is the senior staff person presently assigned to this matter. Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,



Victoria A. Whitney
Division Chief



PEBBLE BEACH
COMPANY

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AUG 17 2007

MPWMD

VIA FACSIMILE and US Mail

August 17, 2007

David Berger
General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
P.O. Box 85
Monterey, CA 93942-0085

Dear Mr. Berger:

I am writing to withdraw the request set forth in my letter to you dated July 27, 2007. While well underway, the advanced treatment portion of the Reclamation Project Expansion is estimated to be only 20% complete at this point. After further consideration, we have decided that it would be best to wait until this last phase of the Project Expansion is closer to completion, and we have a more definitive estimate of the total final costs of the Expansion and the total final revenues from water entitlement sales, before we move forward on any request to sell water outside the area currently approved under Ordinance 109.

If you have any questions, please feel free to call me at 625-8449. Thank you for your assistance.

Sincerely,

PEBBLE BEACH COMPANY

Mark Stilwell
Executive Vice-President and
General Counsel

Cc: *David Laredo, Esq.*
Ray von Dohren, General Manager, CAWD
Craig Anthony, General Manager, PBCSD

LEGAL AFFAIRS



LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

August 20, 2007

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AUG 20 2007

MPWMD

Via Facsimile

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

Re: Initial Study/Negative Declaration for Proposed Ordinance 130

Dear Chair Pendergrass and Members of the Board of Directors:

This office represents Save Our Carmel River, Patricia Bernardi, and The Open Monterey Project. My clients object to the approval of the initial study and proposed negative declaration for proposed Ordinance 130 (water use credit).

The initial study and proposed negative declaration (collectively referred to here as "I/S") are inconsistent with CEQA.

The project is inconsistent with the California Constitution and the MPWMD rules addressing water waste. The MPWMD has the authority to eliminate the wasteful use of water, and should do so. The MPWMD should not provide "incentives" to eliminate water waste that increase the overall water demand, which in turn causes harm to the public trust resources. The project is also inconsistent with SWRCB Order 95-10. The initial study fails to adequately identify and discuss the project's inconsistencies with the state constitution, the MPWMD rules, and the state board order.

The project description is inadequate, as proven by the I/S itself. The project segments the project inappropriately, which minimizes or hides its true impacts. The I/S fails to adequately identify or assess the impacts of additional construction that would be required and enabled by the proposed project. The project appears to be closely linked with the MPWMD's recent amendments to its definitions under its rules, which added new uses to the "non-residential" category.

The I/S fails to adequately identify and discuss the reduced water savings that could occur as a result of the project, and fails to discuss whether credit would be given for landscaping that is inappropriate under MPWMD guidelines. The I/S relies on outdated and inaccurate data, relies on apparent oral statements without researching or verifying them, and lacks accurate, reliable and current information on which to base its conclusions.

The I/S's brief discussion and suggestion that the project "reduces the potential for" increased consumption is not an acceptable discussion of water demand impacts

Chair Pendergrass and Members of the Board of Directors
August 20, 2007
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under CEQA, given the water situation on the Peninsula, MPWMD's studies on the impacts of water credit transfers on water demand, and the recent decision in *Save Our Carmel River v. Monterey Peninsula Water Management District* (2006) 141 Cal.App.4th 677. The I/S fails to adequately identify or discuss the project's impacts, its enabling of non-residential water use, or the potential new water demand that foreseeably could result from the project.

Please put this Office on the distribution list for all meetings, hearings, reports, notices of determination, and other MPWMD actions on this project. Thank you.

Very truly yours,



Michael W. Stamp