



**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G  
POST OFFICE BOX 85  
MONTEREY, CA 939420085 • (831) 658-5600  
FAX (831) 644-9560 • <http://www.mpwmd.dstf.ca.us>

# SUPPLEMENT TO 4/20/09 MPWMD BOARD PACKET

Attached are copies of letters received between March 16, 2009 and April 13, 2009. These letters are also listed in the April 20, 2009 Board packet under item 24, Letters Received.

Author	Addressee	Date	Topic
Curtis Angston	MPWMD Water Demand Div. Staff	3/19/09	Angton project
Leo Laska	Andrew Barnsdale	3/20/09	Comments to Coastal Water Project's Draft Environmental Impact Report - Renewable Power Supply
Heather Sterner	MPWMD Board	3/20/09	Water Conservation Incentives <i>(3/26/09 Response from Darby Fuerst also attached.)</i>
Ralph Rubio	MPWMD Board	3/23/09	Application by California American Water Company and Security National Guaranty to Produce and Use Water in the Seaside Groundwater Basin
Timothy J. Miller	MPWMD Board	3/26/09	Consent Item #4, March 26, 2009 Agenda - Scheduled Date for Deliberations Regarding California American Water's Ryan Ranch Water Distribution System Permit
Sheri L. Damon	David C. Laredo	3/31/09	SNG Permit Application Denial; Offer to Resolve by Settlement <i>(4/3/09 Response from David C. Laredo also attached.)</i>
Craig E. Anthony	Darby Fuerst	4/1/09	Grant Application for Steelhead Habitat Restoration Projects
Victoria A. Whitney	Bob Baiocchi	4/1/09	Permit 20808B (Application 27614B) of Monterey Peninsula Water Management District, Carmel River Stream System in Monterey County
Manuel & Estela Miguel	Darby Fuerst	4/3/09	Suspension of Receipt of Applications for New or Intensified Water Use
Ed Ghandour	Peter Douglas	4/6/09	Monterey Bay Shores Ecoresort Project
Paula J. Landis	MPWMD Board	4/9/09	Request for Groundwater Monitoring Data
Tim Miller	Darby Fuerst	4/10/09	Appeal of Notice of Violation of MPWMD Rule 40D for the Hidden Hills Unit of the California American Water Distribution System

CURTIS ANGTON  
P.O. BOX 1062  
SEASIDE, CA 93955

MAR 23 2009

RECEIVED

March 19, 2009

Ms Gabby Abaya  
Mr. Michael Boles  
Permit Office  
Monterey Peninsula Water Management District  
5 Harris Court  
Monterey, CA 93901

Re: Angton project

Dear Gabby and Mike,

Thank you for your efforts to issue my Water Permit last Tuesday.  
I really appreciate it.

Sincerely,

A handwritten signature in cursive script that reads "Curtis Angton". The signature is written in black ink and is positioned above the printed name.

Curtis Angton

BOARD OF DIRECTORS

LEO LASKA  
CHAIR

SUE McCLOUD  
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IAN OGLESBY  
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MAR 24 2009

WILLIAM MERRY, P.E., CEE  
GENERAL MANAGER/  
DISTRICT ENGINEER

TIMOTHY S. FLANAGAN  
ASST. GENERAL MANAGER

RICHARD SHEDDEN, P.E.  
SENIOR ENGINEER

RICHARD NORTON  
ADMIN. SERVICES MGR.

ROBERT WELLINGTON  
COUNSEL

# MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

*Home of the Last Chance Mercantile*

March 20, 2009

Mr. Andrew Barnsdale  
Environmental Science Associates  
225 Bush Street, Suite 1700  
San Francisco, CA 94104

RE: Comments to Coastal Water Project's Draft Environmental Impact Report – Renewable Power Supply

Dear Mr. Barnsdale:

The Monterey Regional Waste Management District (District) is uniquely positioned to provide an economically and environmentally desirable source of renewable power to the Regional Project, the North Marina Project, and/or expansion of the treated recycled water program at the Monterey Regional Water Pollution Control Agency (MRWPCA) Regional Treatment Plant.

The District provides integrated solid waste management services to the greater Monterey Peninsula. The District's facilities are located on a 475-acre parcel adjacent to the Armstrong Ranch location proposed for both the North Marina and Regional Project alternatives. Its land is also adjacent to the MRWPCA waste water treatment facilities and ground water treatment plant.

The District's primary purpose is to manage the greater Monterey Peninsula area's solid waste stream through recycling and landfill operations. It captures landfill gas and uses it as fuel in an existing 5,000 kilowatt (kW) co-generation facility. Approximately 500 kW of the renewable power produced is used to support the District's recycling operations. The remaining 4,500 kW produced are sold on the commercial market.

In the draft CWP-EIR, the common source of power listed for all projects is PG&E. For projects of these sizes, PG&E power would be expensive and all of the projects describe alternative power sources. One alternative discussed is the production of power from natural gas-fired equipment such as turbines or internal combustion engines. The District believes that receiving regulatory approval to produce power with 100% natural gas-fired equipment will be difficult given the existing, and pending, restrictions on exhaust emissions.

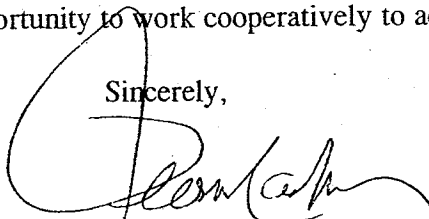
Section 218 of the Public Utility Code allows power generators, such as the District, to sell power "over the fence" directly to end users and bypass the grid. Section 5.5.1.1 of the Draft EIR discusses using District renewable power in support of the Regional Project, but because the North Marina alternative and MRWPCA are on land adjacent to the District, they could also receive the District's renewable power over the fence. Furthermore, the District would be capable of delivering power only as the projects needed and save them the standby charges PG&E would traditionally impose.

As the Draft EIR discusses, the District is evaluating the feasibility of a significant and rapid expansion in its co-generation capacity. To meet the maximum power demands forecasted, the District is exploring the following projects:

- Installation of four new co-generation units running on a mix of landfill gas and natural gas. The District will not produce enough landfill gas to support its existing four units and four additional units for many years. However, building a new power plant, with related infrastructure, and operating it on a mix of landfill and natural gas would allow the District to provide power in the near term. The volume of natural gas needed will be reduced over time as the volume of landfill gas being generated continues to increase.
- Installation of a unit to gasify wood waste to produce electricity. Essentially, in a closed system, the wood waste smolders and produces a hydrogen rich gas that powers co-generation units to produce electricity. The residue material is a solid charcoal-like substance called "biochar" which can be used as a soil additive.
- Installation of a system to capture the exhaust heat from these new units to produce still more electricity.

Obtaining an additional source of water is very important to the District's communities. The District will continue to fully explore every opportunity to provide renewable energy to a neighboring regional water project and we look forward to the opportunity to work cooperatively to achieve this goal.

Sincerely,



Leo Laska  
Board of Directors Chair

cc: Lyndel Melton, RMC  
Jim Heitzman, Marina Coast Water District  
Keith Israel, Monterey Regional Water Pollution Control Agency  
Darby Fuerst, Monterey Peninsula Water Management District

March 20, 2009

MAR 24 2009

Board of Directors  
Monterey Peninsula Water District  
P.O. Box 85  
Monterey, CA 93942-0085

Dear Members of the Board:

My daughter, who lives in Palo Alto, has shown me flyers included with the bills from the City of Palo Alto Utilities.

As you will see, the City of Palo Alto provides a number of monetary incentives for conservation, including \$50 rebates for rain barrels, \$1,000 rebates for cisterns and up to \$2,000 rebates for lawn replacements.

In addition to imploring people to conserve, wouldn't it pay the Monterey Water District to incentivize conservation? It could well prove cheaper than desalination and some of the other measures being contemplated.

Yours truly,

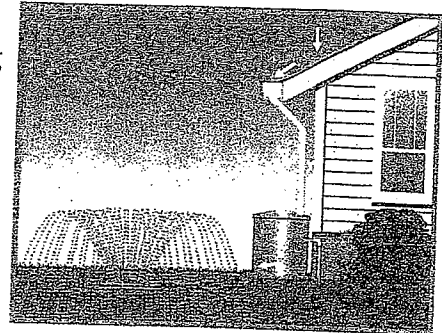


Heather Sterner  
28000 Dorris Drive  
Carmel, CA 93923

enclosures

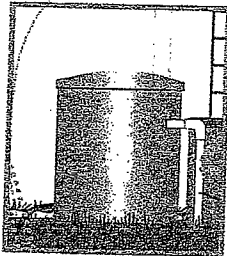
# You can qualify for rebates by reducing storm runoff.

The City of Palo Alto is committed to sustainable development by promoting the use of green building products, methods and design in residential and commercial building projects. One important aspect of "green" development is the inclusion of site design techniques that reduce stormwater runoff and pollution. Some runoff reduction measures also help conserve water through the harvesting and reuse of rainwater. If you are planning a new home or business or considering a remodel of your present facility, the City of Palo Alto wants to make it easier for you to go green through rebates from the Storm Drain Utility.



Rebates are available to Palo Alto residents and businesses for installation of the following stormwater runoff reduction measures:

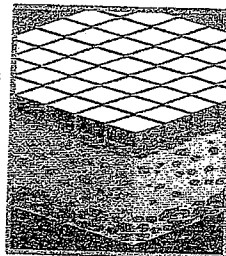
## Rain Barrels



Rain barrels are placed at the base of roof downspouts to collect rainwater for reuse later in landscape irrigation.

\$50 rebate

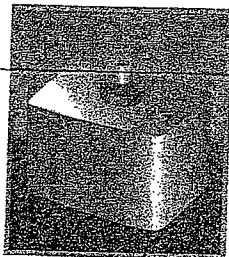
## Permeable Pavement



Driveways, patios and parking lots constructed with permeable pavement (including permeable concrete, asphalt and interlocking pavers) produce less stormwater runoff.

Up to a \$1,000 rebate @\$1.50/sq.ft.

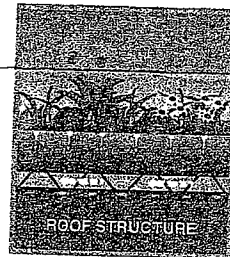
## Cisterns



An underground or above-ground cistern is a large tank that collects enough rainwater to provide a substantial percentage of annual landscape irrigation needs.

Up to a \$1,000 rebate @15 cents/gallon

## Green Roofs



A "green roof" is covered with plant materials to absorb rainwater and provide increased insulation to reduce building heating and cooling costs.

Up to a \$1,000 rebate @\$1.50/sq.ft.



City of Palo Alto  
Storm Drain Utility

For more information, including eligibility requirements, application forms and helpful design tips, see our web site at

[www.cityofpaloalto.org/stormwater](http://www.cityofpaloalto.org/stormwater)

or call (650) 329-2151

March '09

City of Palo Alto Utilities Mar '09



LET'S GO LEARN

### California Natives in Your Garden!

by Deva Luna, Sustainable  
Landscape Designer

Save water, increase habitat diversity, reduce your maintenance time, and help the planet by reducing the use of chemicals. All this will happen when you create a garden using beautiful California native plants. Learn how you can receive up to a \$2,000 rebate by replacing your thirsty lawn.

The Natives class will be held on April 4, from 10 a.m.-12 p.m., at the Lucie Stern Community Center.

*Space is limited*  
Call (650) 349-3000 or e-mail [landscape@bawsca.org](mailto:landscape@bawsca.org) to register.



## MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

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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>

March 26, 2009

Heather Sterner  
28000 Dorris Drive  
Carmel, CA 93923

**Subject: Financial Incentives to Encourage Conservation**

Dear Ms. Sterner

Thank you for the March 20, 2009 letter that provided information on rebates offered by the City of Palo Alto to encourage water conservation. The District also offers rebates for installation of water saving fixtures for indoor and outdoor uses. I have referred your letter to Stephanie Pintar, Water Demand Division Manager, and asked her to provide you with information on the District's water conservation program and the rebates we offer, which have enabled water customers in the California American Water Distribution System to reduce water use by 15% over pre-1995 levels.

The information you provided is also timely, as the Board of Directors is focusing considerable effort on development of local and state regulations that would allow the expansion of greywater use for indoor and outdoor water needs. The City of Palo Alto could be a good source of information as we proceed with this effort.

Sincerely,

Darby Fuerst  
General Manager

pc: MPWMD Board of Directors  
Stephanie Pintar



SEASIDE GROUNDWATER BASIN  
WATERMASTER  
2600 Garden Road, Suite #228  
Monterey, CA 93940

March 23, 2009

MAR 24 2009

**HAND DELIVERED**

Board of Directors  
Monterey Peninsula Water Management District  
5 Harris Court  
Monterey, CA 93942

RE: Application by California American Water Company and Security National Guaranty to Produce and Use Water in the Seaside Groundwater Basin

Dear Members of the Board:

The Seaside Groundwater Basin Watermaster has become aware that your Board recently acted to deny an application by California American Water Company and Security National Guaranty to produce water from the Seaside Groundwater Basin, for use on land owned by Security National Guaranty, which overlays the Seaside Groundwater Basin. For the reasons expressed below, the Seaside Groundwater Basin Watermaster is concerned that your decision may have been based on a misunderstanding of the physical solution ordered by Judge Randall (the "**Physical Solution**") in the judgment ("**Judgment**") entered in the action, *California American Water vs. City of Seaside* (No. M66343, Monterey County), and related legal and policy principles applicable to the use of groundwater from the Seaside Basin. Therefore, the Seaside Groundwater Basin Watermaster requests that you reconsider your recent action in light of these considerations. The Watermaster requests that the District issue findings concerning the following legal and policy principles concurrently with its decision on the instant application:

- Application of the Physical Solution embodied within the Judgment as a comprehensive groundwater management program for the perpetual protection of the Seaside Groundwater Basin;
- The reliability and legal certainty of Alternative Production Allocation groundwater rights declared by the Judgment with respect to the ability to produce such rights in each and every year in the quantities decreed;
- The legality of producing an Alternative Production Allocation right from an off-site location so long as the use of the water is on the overlying parcel identified in the Judgment;

- The technical implications with respect to management of the Seaside Basin, and specifically prevention of seawater intrusion, from redirecting pumping from coastal parcels to more inland locations; and
- The legal and policy appropriateness of allowing water produced by California American Water pursuant to Security National Guaranty's Alternative Production Allocation right to be commingled with water from other sources and water rights, and delivered to the Security National Guaranty parcel, so long as deliveries do not exceed the quantity of water produced pursuant to the Alternative Production Allocation right.

The Watermaster offers the following discussion to assist you in making findings in this matter.

### The Physical Solution

Based on the evidence presented during the trial in *California American Water vs. City of Seaside*, Judge Randall found the Seaside Groundwater Basin was in overdraft. Acting under the authority of Article X Section 2 of the California Constitution, Judge Randall made his order for the Physical Solution to the overdraft condition. All of the parties in that case, including the Monterey Peninsula Water Management District are bound by that order.

There are several aspects to the Physical Solution. One aspect of the Physical Solution was to establish the Natural Safe Yield for the Seaside Groundwater Basin. Another aspect of the Physical Solution was to allocate water rights within the Basin among a group of ground water producers. The Physical Solution divides those producers into two distinct classes. The first class is called "Alternative Producers". The second class is called "Standard Producers". The Physical Solution assigns different rights and obligations to members of each of those two classes of producers.

### Security National Guaranty's Alternative Production Right

Judge Randall's Physical Solution assigns Security National Guaranty to the class of Alternative Producers. Producers holding an Alternative Production right can legally produce a certain amount of water from the Basin on an annual basis. In the case of Security National Guaranty, the Physical Solution allows it to produce up to 149 acre feet from the Basin each year.

The Physical Solution does not require any reduction of the amount of water which can be produced by an Alternative Producer in the Coastal Subarea. Indeed, the Natural Safe Yield for the Coastal Subarea established by Judge Randall exceeds the cumulative amount of water which could be produced by all of the Alternative Producers in that Subarea by a margin greater than 2:1. As noted in your staff's report, the production or non-production of water from the Basin by an Alternative Producer has no effect on the amount of water which can be produced from the Basin by a Standard Producer under the Physical Solution.

Pursuant to the Physical Solution, the Alternative Production right held by Security National Guaranty is secure and absolutely reliable. The Seaside Groundwater Basin Watermaster also believes that the Alternative Production right satisfies all criteria established for the showing of a sufficient and reliable water supply under S.B. 610 (Water Supply Assessment) and S.B. 221 (Verification of Water Supply) and the California Environmental Quality Act. (See e.g., *O.W.L. Foundation v. City of Rohnert Park* (2008) 168 Cal.App.4th 568, *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412.).

As you are aware, as an act of the Superior Court of the State of California, the Physical Solution ordered by Judge Randall is not subject to review under the California Environmental Quality Act (See: CEQA Guidelines §15379). The Physical Solution itself embodies a comprehensive management program to ensure that the Seaside Basin is protected as a perpetual source of water for the community.

Consistent with common law governing the rights of persons owning property overlying a groundwater basin, the Physical Solution allows Security National Guaranty to cause water to be produced under its Alternative Production right at any location in the Basin, so long as that water is used on the Security National Guaranty property identified in Judge Randall's order. (See e.g., *Hildreth v. Montecito Creek Water Co.* (1903) 139 Cal. 22, 2; *Erwin v. Gage Canal Co.* (1964) 226 Cal.App.2d 189, 192-193; *Turner v. Eastside Canal & Irr. Co.* (1914) 168 Cal. 103, 108.) This principle of law is employed by mutual water companies, and irrigation ditch and canal companies throughout the State of California to pool overlying and analogous riparian rights and produce or divert such rights from a common location.

In fact, the Physical Solution encourages production facilities in the Basin to be located inland, away from the coastline, to prevent seawater intrusion. The Seawater Intrusion Analysis Report recently completed by the Watermaster pursuant to the Physical Solution states at page 53:

- “Ideally, pumping should be equally distributed throughout a basin, and occur relatively far inland.” (emphasis added)
- “...pumping in the basin is concentrated at two large production wells; these wells account for roughly half of the total production from the Seaside Groundwater Basin. The advantage of pumping significant amounts from these two wells is that they are both located away from the coastline. The disadvantage of using these two wells is that they are relatively close to each other.”

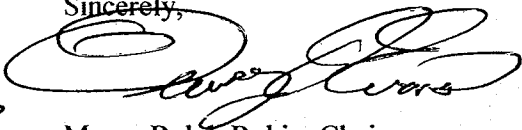
#### Commingling Water Supplies

Groundwater can be produced by California American Water Company utilizing Security National Guaranty's Alternative Production right and commingled with California American Water Company's other water supplies (such as the Carmel River and the Sand City desalination facility) without violating State Water Resources Control Board Order 95-10. The

commingling of water supplies is generally allowed by law in order to accommodate prudent water management. (See e.g., Water Code § 7075 [allowing foreign water to be diverted into a stream, commingled, and recovered as a means of natural conveyance of water]; see also *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 261-263 and *City of Los Angeles v. City of Glendale* (1943) 23 Cal.2d 68, 76-77 [both opinions acknowledging right to use available underground storage space to store and commingle imported water with native groundwater supply for later recapture of quantity of stored water]). Thus, the Watermaster perceives no justifiable reason to prohibit commingling of California American Water's supplies with water produced pursuant to an Alternative Production Allocation right so long as the quantities delivered to Security National Guaranty do not exceed the quantity produced pursuant to the Alternative Production Allocation right.

The Watermaster appreciates the District's consideration of this letter and the requests made herein. Please direct any comments or questions to my attention.

Sincerely,



for - Mayor Ralph Rubio, Chair

Seaside Groundwater Basin Watermaster

Cc: David Laredo, Esq.

Received at 3/26/09 MPWMD  
Board Meeting

17



303 H Street  
Suite 250  
Chula Vista, CA 91910  
[www.calamwater.com](http://www.calamwater.com)  
[tim.miller@amwater.com](mailto:tim.miller@amwater.com)

P 619.409.7733  
F 619.409.7701

March 26, 2009

Kristi Markey  
Chair  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
Monterey, CA 93942-0085


Re: Consent Item #4, March 26, 2009 Agenda – Scheduled Date For Deliberations Regarding California American Water's Ryan Ranch Water Distribution System Permit

Dear Ms. Markey:

I have been advised by District General Counsel, David Laredo that the MPWMD Board is considering holding the meeting to deliberate on California American Water's Ryan Ranch Water Distribution System permit. It is my understanding that the presumed date is May 20, 2009. This letter is to inform you that, as counsel of record to California American Water, California American Water has no objection to holding the deliberations on May 20, 2009.

It is also my understanding that the May 20th meeting may not include a process for the parties to address the Board. California American Water requests the Board to consider allowing brief presentations (3 to 5 minutes per party) by the parties to summarize their positions and address issues raised in the reply briefs.

Thank you,



Timothy J. Miller

cc: Darby Fuerst, General Manager, MPWMD (via e-mail)  
David Laredo, Esq., General Counsel, MPWMD (via e-mail)  
Sheri Damon, Esq., Lombardo and Gilles, (via e-mail)  
David Swiebert, Esq. Fenton and Keller, (via e-mail)

**DAMON LAW OFFICES**

March 31, 2009

**RECEIVED****APR 03 2009****MPWMD**

VIA EMAIL: dave@laredolaw.net

David Laredo, Esq.  
DeLay & Laredo  
606 Forest Avenue  
Pacific Grove, CA 93950

RE: SNG Permit Application Denial; Offer to Resolve by Settlement

Dear Mr. Laredo:

In accordance with Code of Civil Procedure section 1021.5, this letter seeks to resolve applicant Security National's concerns regarding the Water Management District's recent denial of SNG's water distribution system permit.

As we have articulated in previous comments, letters and testimony to the Board during the past 6 months, SNG believes that it has meet all criteria for issuance of a ministerial water distribution permit. SNG believes that the Board is acting in excess of its jurisdiction under the Amended Decision.

We are writing to again advise the WMD that SNG is willing to discuss a path for immediate issuance of the permit without resorting to litigation. In any such resolution, the WMD would need to take action to acknowledge the limitations placed upon it by the Seaside Adjudication Order.

Should the WMD have interest in further discussions along these lines, please know our door is always open. I can be reached either on my home office phone (831) 423-8382 or my mobile office phone (831) 345-3610.

Sincerely,  
Damon Law Offices



Sheri L. Damon

Cc: Security National Guaranty  
California American Water

**De LAY & LAREDO**

Attorneys at Law  
606 Forest Avenue  
Pacific Grove, California 93950

Paul R. De Lay  
David C. Laredo  
Frances M. Farina  
Heidi A. Quinn

Telephone (831) 646-1502  
Facsimile (831) 646-0377

April 3, 2009

**RECEIVED**

APR 08 2009

**MPWMD**

Sheri L. Damon  
Damon Law Offices  
618 Swanton Road  
Davenport, CA 95017

Re: SNG Permit Application; MPWMD March 26, 2009 Denial of Application to Serve  
Monterey Bay Shores Ecoresort; MPWMD Application #20080915MBS; APN 011-501-014.

Dear Ms. Damon:

This letter responds to your correspondence dated March 31, 2009 in connection with the Security National Guarantee (SNG) permit application to the Monterey Peninsula Water Management District (MPWMD). I construe your letter to refer to the March 26, 2009 action of the MPWMD Board of Directors to deny the joint application of SNG and California American Water (Cal-Am) to amend the Cal-Am Water Distribution System (WDS) to enable service to SNG's proposed Monterey Bay Shores Ecoresort. This refers to Application #20080915MBS.


Your letter states that "SNG believes it has meet (sic) all criteria for issuance of a ministerial water distribution permit." You also seek our discussion of "a path for immediate issuance of the permit without resorting to litigation."

MPWMD does not construe Application #20080915MBS to enable issuance of ministerial permit. I do not recall any testimony at the hearing on the referenced application to support your inference that issuance of the permit can permissibly be processed by ministerial action.

Frankly, I am unaware of any ministerial water distribution permit that would allow extension of the Cal-Am WDS to serve SNG's proposed Monterey Bay Shores Ecoresort under the terms stated in the referenced application. In support of your request for ministerial approval, please provide me with a citation to any provision of District ordinance that would allow a ministerial WDS permit for this purpose.

Very Truly Yours,

De LAY & LAREDO

  
David C. Laredo

DCL:dcl

cc: Darby Fuerst



CALIFORNIA  
AMERICAN WATER

California American Water - Monterey  
511 Forest Lodge Rd, Suite 100  
Pacific Grove, CA 93950  
amwater.com

April 1, 2009

Mr. Darby Fuerst  
General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Bldg G.  
Post Office Box 85  
Monterey, CA 93942-0085

RECEIVED

APR - 2 2009

MPWMD

Dear Mr. Fuerst:

Thank you for your letter dated March 25, 2009, regarding the Monterey Peninsula Water Management District's federal grant application for proposed steelhead habitat restoration projects. Your letter indicates the proposed projects would be located on California American Water property in the Carmel Valley. I understand from your letter that you are requesting California American Water's "formal concurrence" for the District's efforts to apply for the funding by April 1, 2009. It is our understanding that the District is seeking access authorization only and not a commitment of any funds.

As you know, California American Water is supportive of and is an active participant in efforts to protect and enhance the population of steelhead trout in the Carmel River. Unfortunately, given the short time frame you have provided us in which to respond and the lack of detail on the projects, we are unable to fully assess the impact of the projects on the Company's operations, both existing and planned. As such, we cannot unconditionally commit to authorizing access for any particular project. We can, however, commit to working with the District to attempt to reach agreements for project access.

Sincerely,

Craig E. Anthony  
General Manager  
Central Division





CALIFORNIA AMERICAN WATER

RECEIVED

APR - 2 2009

FAX

MPWMD

DATE: 4-2-09

TO: Darby Forest

FROM: Craig Anthony

COMPANY: MPWMD

PHONE: 831-646-3216

FAX: 644-9560

FAX:

PAGES (including cover): 2

SUBJECT: [Lined area for subject text]



# State Water Resources Control Board

25



**Linda S. Adams**  
Secretary for  
Environmental Protection

**Division of Water Rights**  
1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
P.O. Box 2000 ♦ Sacramento, California 95812-2000  
Fax: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)

**Arnold Schwarzenegger**  
Governor

APR 01 2009

California Salmon and Steelhead Association  
c/o Bob Baiocchi  
P.O. Box 1790  
Graeagle, CA 98103  
[rbaiocchi@gotsky.com](mailto:rbaiocchi@gotsky.com)

RECEIVED

In Reply Refer  
to:LFD:27614B

APR 07 2009

MPWMD

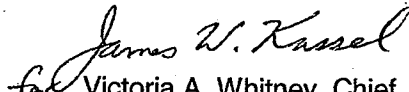
Dear Mr. Baiocchi:

PERMIT 20808B (APPLICATION 27614B) OF MONTEREY PENINSULA WATER  
MANAGEMENT DISTRICT, CARMEL RIVER STREAM SYSTEM IN MONTEREY COUNTY

The Division of Water Rights (Division) received the protest you filed against the Petition for Change of Permit 20808B (Application 27614B) of Monterey Peninsula Water Management District (Petitioner) on February 27, 2009. As indicated in the notice, protests were required to be received by the Division on or before the February 16, 2009 deadline. The Division received your protest on February 27, 2009. Therefore, it is unacceptable.

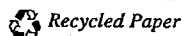
If you have questions regarding this matter, please contact Lauren Dailey at (916) 341-5314 or by email at [ldailey@waterboards.ca.gov](mailto:ldailey@waterboards.ca.gov).

Sincerely,

  
Victoria A. Whitney, Chief  
Division of Water Rights

cc: Monterey Peninsula Water  
Management District  
c/o Darby Fuerst  
P.O. Box 85  
Monterey, CA 93942-0085

*California Environmental Protection Agency*



April 3, 2009

RECEIVED<sup>27</sup>

APR 05 2009

To: Craig Anthony, California American Water General Manager  
Darby Fuerst, Monterey Peninsula Water Management District General Manager  
Dave Potter, Monterey County District 5 Supervisor

MPWMD

From: Manuel and Estela Miguel, 25401 Quail Summit Monterey, CA 93940

Subject: Suspension of Receipt of Applications for New or Intensified Water Use

Dear Sirs, I am writing this letter to follow up with the phone conversation I had with Craig Anthony on April 2, 2009 and on April 3, 2009 with Darby Fuerst and Dave Potter's secretary also on the April 3, 2009 because of the appeal of the recent suspension of receipt of applications for new or intensified water use by the MPWMD (Monterey Peninsula Water Management District). I am doing so in light of the fact that I was assured on several occasions by the MPWMD that I would not have any problems obtaining water as part of the HHWDS (Hidden Hills Water Distribution System) when remodeling my residence at 25401 Quail Summit Monterey.

In July of 2008 I spoke with the office of the MPWMD before starting with architectural plans to remodel my residence. In that conversation, I was assured that there wouldn't be any problems with my remodel as it pertained to water and water hookups due to living in the HHWDS. Moreover, I was told that by being part of the HHWDS I would actually receive a discount on the cost of each of the water connections needed in my residences remodel. Based on that initial assurance, I began the architectural process to draft plans and submit them to the county for approval. Then in December of 2008, I again spoke with the office of the MPWMD, and once again was assured that I would not have any problem obtaining a water permit. On March 16, 2009 I spoke with the office of the MPWMD and asked for something in writing stating what had been verbalized to me in the past. To that, I was told that I couldn't get anything to that effect in writing unless I had plans from the county ready to submit to the MPWMD for a water permit. However, I was told that there would still be no problem in obtaining water and that if I'm already going through the process with the county, that there wouldn't be a problem and that I should just submit plans for a water permit when they are ready. To my surprise, on March 23, 2009 I received a letter from the MPWMD dated March 20, 2009 stating the HHWDS was having a suspension of receipt of applications for new or intensified water use.

I was assured throughout the process that I would be able to obtain water as part of the HHWDS and proceeded to spend a large sum of money and time with the architectural plans and the permit and approval process to remodel my residence, and did so based on the information received by the MPWMD. I find the recent news by the MPWMD of a suspension of receipt of applications for new or intensified water use to be very irresponsible and a direct contradiction to everything the MPWMD had told me for nearly a year and was assured just four days prior to the writing of the March 20, 2009 letter by the MPWMD. Now that I have received a letter from Monterey County Planning Department dated April 2, 2009 stating that my application is complete, I am writing to appeal the suspension of receipt of applications for new or intensified water use. I feel that in light of the facts above and the continued assurance by the MPWMD that I be granted a water permit at this time.

Sincerely,

Manuel and Estela Miguel



Security National Guaranty

April 6, 2009

Mr. Peter Douglas  
Executive Director  
California Coastal Commission  
45 Fremont, Ste 2000  
San Francisco, CA 94105

Dear Peter,

I am responding to your letter dated March 5, 2009. I was travelling outside the US for part of March. I wish to be clear that my letter did not contain any accusations towards Commission staff members. As you are aware, we have been working collaboratively on our coastal development permit with your staff for over a year, and I certainly appreciate it.

The comments made in my letter dated February 27, 2009 accurately report what was told to us by Mr. Chris Fitz, and were not directed at Coastal Commission staff. The letters were actually available for delivery to MPWMD on February 26<sup>th</sup>, the date of the public hearing on our water distribution permit, but due to legal advice were not delivered that day and resent the following day, re-dated. Mr. Chris Fitz engaged both Paul and I for almost 75 minutes in what can be termed a "confessional dialogue", in which he elaborated on numerous matters that he felt not only interfered and obstructed with due process of our permit, but also affected his professional work ethics and ability to fulfill his vision at Landwatch. He stated emphatically his support for our project and that he did not wish people to think that Landwatch is always against development, but rather, that some good developments deserve to move forward like the MBS Ecoresort and that social equity was his other concern. Both Paul and I were totally surprised by the shocking matters brought to our attention, as neither one of us expected the meeting to be anything other than a casual presentation on the environmental benefits of the Monterey Bay Shores Ecoresort. I am certain you are aware by now that his departure from the Executive Director position at Landwatch after this episode was no coincidence.

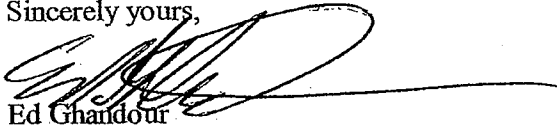
If anyone should be offended at what was said at that meeting, it's us. Working diligently through the planning and review process, following all the rules and regulations, the last thing you wish to hear is that regulatory personal and other individuals are in fact obstructing fair due process. Coming from Mr. Chris Fitz, there was no way for us to "judge" his comments, but to assume that he was communicating the facts. His subsequent denial lacks any merit. I welcome

1

for us to meet and discuss this matter further so that we may prevent similar events from occurring in the future. An open channel of communications between us would help a lot. An oversight committee would be a good idea. Would you support that?

Let me assure you and staff at the Coastal Commission that our intention is to work together and collaboratively towards a final coastal development permit approval. I look forward for that reciprocity from Coastal staff, and if you and staff were offended by Mr. Fitz's comments, I am sorry for what was said.

Sincerely yours,



Ed Ghandour  
President

cc. Paul Kephart, Rana Creek  
Chris Fitz  
Darby Fuerst, MPWMD  
Henrietta Stern, MPWMD  
Charles Lester, Dan Carl, Michael Watson, Coastal Commission  
Tom Roth, Esq.

**DEPARTMENT OF WATER RESOURCES**

SAN JOAQUIN DISTRICT  
3374 EAST SHIELDS AVENUE  
FRESNO, CA 93726-6913

**RECEIVED**

APR 13 2009

**MPWMD**

April 9, 2009

To Monterey Peninsula Water:

As we work to comply with the Governor's February Drought Emergency Proclamation and to assist local agencies in regional coordination and development of integrated regional water management plans, including effective groundwater management plans, we must acknowledge the lack of adequate and current groundwater data.

Our pressing need for collecting and evaluating groundwater level data is the result of the Drought Emergency Proclamation. The Governor ordered immediate action to manage the crisis. Item number 12 within his proclamation directs that:

*"DWR shall continue to monitor the State's groundwater conditions, and shall collect groundwater-level data and other relevant information from water agencies, counties, and cities. It is requested that water agencies, counties and cities cooperate with DWR by providing the information needed to comply with this Proclamation."*

Our long-term need for data management and collection is identified in the latest update of the California Water Plan. A public draft of *California Water Plan – Update 2009* was recently completed and is currently available for public review. One of the recommendations in the Plan that is specific to groundwater management and data is to:

*"Develop a statewide comprehensive data management system to track available information about groundwater and existing and proposed conjunctive management projects throughout the State."*

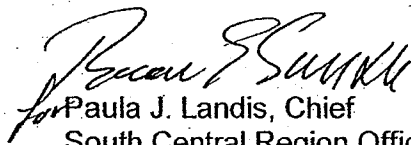
There are, without question, information gaps that impair the efficient management of groundwater in California. The importance of long-term monitoring networks cannot be overstated. Sound groundwater management decisions require observation of trends in groundwater levels and groundwater quality over long periods of time.

April 9, 2009  
Page 2

In an effort to resolve this shortcoming, we are seeking your assistance to facilitate the sharing of data throughout the State to make groundwater management more efficient and effective. We would like to discuss with you what groundwater data you may or may not have and data formatting options. We will be contacting you to discuss this request.

If you have any questions, please contact Brian Smith at (559) 230-3342 or Dane Mathis of my staff at (559) 230-3354.

Sincerely,

  
Paula J. Landis, Chief  
South Central Region Office



303 H Street  
 Suite 250  
 Chula Vista, CA 91910  
 www.calamwater.com  
 tim.miller@amwater.com  
 P 619.409.7733  
 F 619.409.7701

**RECEIVED**

**APR 13 2009**

**MPWMD**

April 10, 2009

VIA E-MAIL AND HAND DELIVERY  
 Darby Fuerst  
 General Manager  
 Monterey Peninsula Water Management District  
 5 Harris Court, Building G  
 Monterey, CA 93942

Re: Appeal of Notice of Violation of MPWMD Rule 40D For the Hidden Hills Unit of the California American Water Distribution System

Dear Mr. Fuerst:

In response to the above-referenced Notice of Violation sent on March 20, 2009, California American Water [California American] hereby appeals the General Manager's determination that the Hidden Hills Water Distribution System is in violation of the Monterey Peninsula Water Management District [MPWMD] Rules and Regulations. The grounds for this appeal include, but are not limited to, the following:

1. Exceeding the Pro Rata Expansion Capacity is not a violation of any MPWMD rule.
2. The Notice of Violation is vague and ambiguous.
3. As applied, Rule 40D violates California law or is preempted by other laws, including but not limited to: Article X, Section 2 and Article XII of the California Constitution, and California American's duty to serve under the Public Utilities Code.
4. California American is in substantial compliance with Rule 40.
5. California American has already established a plan for reducing water consumption in the Hidden Hills service area, including, but not limited to, changes in water rate structure and system improvements to reduce unaccounted for water. That plan requires approval of the California Public Utilities Commission, and that approval is pending.

Based on these grounds, California American requests the MPWMD Board to reverse the General Manager's determination that the Hidden Hills Water Distribution System has exceeded the Pro Rata Expansion Capacity, or remove those restrictions listed in Rule 40D that went into effect due to the General Manager's determination, or both.

The Notice of Violation states that any appeal must be accompanied by an appeal fee, and the General Manager has stated that a fee of \$250 applies to this appeal. California American appreciates your accommodation of allowing us to timely file the appeal on Friday, April 10, 2009





**CALIFORNIA  
AMERICAN WATER**

but provide you with the appeal fee on Monday April 13, 2009 to account for delays in our accounting system.

California American hereby requests that this appeal process be delayed for a period of 30 days from the date of this letter so that California American can continue its investigation into this matter. If California American does not either notify the MPWMD that it wishes to prosecute the appeal or withdraw this appeal by May 10, 2009, California American requests this appeal to be set for hearing in due course. At such a hearing, California American will present evidence and argument to support the grounds listed above. If the MPWMD cannot implement a delay in processing this appeal, please notify me immediately.

If you have questions about this appeal, please contact the undersigned or Craig Anthony, General Manager of California American's Central Division.

Best regards,

Tim Miller  
Corporate Counsel

cc: Carrie Gleeson (w/o enc.)  
Craig Anthony  
Tom Bunosky (w/o enc.)  
Kent Turner (w/o enc.)  
David Laredo (w/o enc.)

enc. MPWMD Appeal Form



**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G  
POST OFFICE BOX 85  
MONTEREY, CA 93942-0085 • (831) 658-5601  
FAX (831) 644-9558 • <http://www/mpwmd.dst.ca.us>

Please **PRINT OR TYPE** all information. Applications must be received within twenty-one (21) days after an appealable decision has been made pursuant to District Rule 70. To be considered for an appeal hearing, please submit a completed application and include a non-refundable processing fee (\$250 for less than half acre-foot of water, \$500 for half- one acre-foot of water, and \$750 for more than one acre-foot of water, plus \$70.00 an hour for more than 10 hours of staff time); other information as necessary which may include 5 years of water records from purveyor. The Board will support or deny your appeal based on the pertinent information you have provided. Submission of an incomplete application may constitute grounds for denial of your request.

**APPLICATION FOR APPEAL**

**APPLICANT INFORMATION**

1. Applicant's Full Name: California American Water  
Mailing Address: 303 H Street, Suite 250  
City: Chula Vista State: CA Zip: 91910  
Phone Number(s): Work ( 619 ) 409-7700 Home (      )
2. Name of Agent(s) to Represent Applicant: Tim Miller  
Mailing Address: 303 H Street, Suite 250  
City: Chula Vista State: CA Zip: 91910  
Phone Number(s): Work ( 619 ) 409-7733 Home (      )

**PROPERTY INFORMATION**

1. Full Name of Property Owner: N/A  
Mailing Address: N/A  
City: N/A State: N/A Zip: N/A  
Phone Number(s): Work (      ) N/A Home (      ) N/A
2. Property Address: N/A  
City: N/A State: N/A Zip: N/A
3. Assessor's Parcel Number: N/A -      -
4. Property Area: Acres: N/A Square Feet: N/A Other: N/A
5. Past Land Use: N/A
6. Present Land Use: N/A
7. Proposed Land Use: N/A  
Existing buildings? Yes N/A No N/A  
Types of uses and square footage: N/A

## APPEAL APPLICATION

## EXHIBIT 1

## STATEMENT OF APPEAL REQUEST

*\*If additional space is needed for response to any question, please continue on a separate piece of paper and attach it to the back of this application.*

1. From which rule(s) or staff's decision(s) are you requesting an appeal?

See accompanying letter

2. Do you feel the rule or staff's decision is applicable in most cases, or do you believe it should be revoked or changed?

See accompanying letter

3. What were the circumstances surrounding your decision to appeal?

See accompanying letter

4. Please state the special circumstances that distinguish your application from all others which are subject to enforcement of this process.

See accompanying letter

5. What difficulties or hardships would result if your appeal request is denied?

See accompanying letter

6. What specific action are you requesting that the Board take?

See accompanying letter

7. Please indicate if you intend to make a statement at the appeal hearing, and list the names of any other individuals who may speak on your behalf.

See accompanying letter

APPLICATION FOR APPEAL

EXHIBIT 2

PROJECT INFORMATION

\*If additional space is needed for response to any questions, please continue on a separate piece of paper and attach it to the back of this application.

- 1. Type of Project:  N/A  New Construction  N/A  Remodel/Addition
- 2. Proposed New Use: (Please refer to the District's current Fixture Unit/Use Category sheet for assistance with this question.)  
 N/A  Residential No. Dwellings  N/A  Total No. Fixture Units (Residential Only)  N/A   
 N/A  Commercial/Industrial/Governmental  
Type of Use:  N/A  Square Footage:  N/A   
 N/A  Other (Specify):  N/A
- 3. Current Zoning Classification:  N/A
- 4. Name of the water company which services the property:  N/A
- 5. Do you feel this project will use less water than that calculated by the District? If so, please explain how much you believe the project will use, and the basis on which you make this assumption.  
 N/A
- 6. Has this project been approved by the local jurisdiction? If so, please list or attach a copy of all conditions which have been imposed on the project. (Attach a copy of these conditions and approvals received.)  
 N/A
- 7. Does the applicant intend to obtain a municipal or county building permit for the project within ninety (90) days following the granting of a water connection permit? If not, when will water be needed at the site?  
 N/A

\*\*\*\*\*

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

[Signature]   
Signature of Applicant

4/10/2009 CHULA VISTA, CA   
Date/Location

NOTE TO APPLICANT: You may attach written findings for the Board to review and consider in support of the action you have requested.

**Official Use Only**

Fee Received \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Check No. \_\_\_\_\_ Bank Routing No. \_\_\_\_\_  
Received by \_\_\_\_\_