MONTEREY PENINSULA WATER MANAGEMENT DISTRICT

Supplement to 1/27/11 MPWMD Board Packet

Attached are copies of letters received between December 7, 2010 and January 20, 2011. These letters are also listed in the January 27, 2011 Board packet under item 21, Letters Received.

Author	Addressee	Date	Topic
William Monning	Lester A. Snow	12/2/10	Expressing support for Integrated Regional Water Management Planning Grant for MPWMD
Kelly Franger	MPWMD Board	12/10/10	Living Rivers council v State Water Resources Control Board
John Bohn	Darby Fuerst	12/13/10	Announcing separation from the Public Utilities Commission
Ron DeHoff	All Responsible Agencies	12/15/10	CEQA Litigation with regard to Monterey County General Plan
Michael Stamp	All Responsible Agencies	12/15/10	CEQA Litigation with regard to Monterey County General Plan
Craig E. Anthony	Darby Fuerst	12/17/10	Monterey Bay Shores Ecoresort Condition of Approval No. 30 – Water Accounting Protocol
Brien LeNeve	Kathy Mrowka	12/24/10	Conditional Protest Dismissal by the Carmel River Steelhead Association
Katherine Mrowka	Robert McLean	12/30/10	Order Canceling Applications 30215B and 30715, Carmel River and Carmel River Subterranean Stream in Monterey County
Mark Stromberg, Ph.D.	Michael R. Peevey	1/4/2011	Support continued streamflow monitoring done by MPWMD on the Carmel River
Lorin Letendre	Michael R. Peevey	1/5/11	Support for Application No. 10-01-012 to Continue Collection of MPWMD User Fee for Carmel River Mitigation Program and Aquifer Storage and Recovery Project
Robert G. MacLean	Darby Fuerst	1/6/11	Reimbursement Agreement for Mitigation and ASR Activity Expenses; Notice of Intent to Terminate Reimbursement Agreement for Convenience; Request to Meet and Confer on Modification to Reimbursement Agreement
Thomas Christensen	Michael R. Peevey	1/6/11	California American Water and MPWMD User Fee Application No. 10-01-012
Brenda Buran	Michael R. Peevey	1/6/11	Application No. 10-01-012
Nicole Nedeff	Michael R. Peevey	1/6/11	Support for Application No. 10-01-012, Continue Collection of MPWMD User Fee for Carmel River Mitigation program and Aquifer Storage and Recovery Project

5 Harris Court, Building G, Monterey, CA 93940 • P.O. Box 85, Monterey, CA 93942-0085
831-658-5600 • Fax 831-644-9560 • http://www.mpwmd.dst.ca.us

Dennis L. Knepp, Ph.D.	Michael R. Peevey	1/6/11	Support for Application No. 10-01-012
Todd Norgaard	Michael R. Peevey	1/7/11	Support for Application 10-01-012
David H. Dettman	Michael R. Peevey	1/10/11	Support for Application 10-01-012
John W. Farnkopf, P.E.	Michael R. Peevey	1/10/11	Support for Application No. 10-01-012
Bob & Ruth Stephan	Michael R. Peevey	1/13/11	Support for Judge Maribeth Bushey's proposed decision re Application No. 10-01-012

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COMMITTEES
CHAIR, HEALTH
ARTS, ENTERTAINMENT, SPORTS, TOURISM & INTERNET MEDIA
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JOINT LEGISLATIVE AUDIT COMMITTEE
JUDICIARY
LABOR AND EMPLOYMENT
WEBSITE: www.assembly.ca.gov/monning

Assembly
California Legislature

WILLIAM W. MONNING
ASSEMBLYMEMBER, TWENTY-SEVENTH DISTRICT

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0027
(916) 319-2027
FAX (916) 319-2127

DISTRICT OFFICES
701 OCEAN STREET, SUITE 318-B
SANTA CRUZ, CA 95060
(831) 425-1503
FAX (831) 425-2570

99 PACIFIC STREET, SUITE 555-D
MONTEREY, CA 93940
(831) 649-2832
(831) 649-2935

SANTA CLARA COUNTY DIRECT LINE
(408) 782-0647

December 2, 2010

RECEIVED
JAN - 4 2011
MPWMD

Lester A. Snow, Secretary
State of California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Secretary Snow:

This letter is to request your support of the Integrated Regional Water Management (IRWM) Planning Grant application by the Monterey Peninsula, Carmel Bay, and South Monterey Bay Region for a grant of $995,000 from Proposition 84 funds.

The Monterey Peninsula region has worked diligently over the past five years to develop a cohesive, comprehensive, integrated approach to solving the very significant water resource challenges it faces. These challenges include a California Superior Court adjudication of a local groundwater basin that historically supplied 25% of municipal demand; a draft requirement by the State Water Resources Control Board (SWRCB) to cease non-stormwater discharges to Areas of Special Biological Significance (ASBS); and a Cease and Desist Order from the SWRCB that could result in reducing available water supplies from the Carmel River by 70% by 2017, impacting approximately 75% of the municipal demand on the Monterey Peninsula.

A significant number of local government agencies, for-profit, and non-profit organizations are participating in the IRWM planning process and the establishment of this working group at a time when the Monterey Peninsula is under pressure to meet the obligations imposed by the state represents a huge step forward. However, the Monterey Peninsula region has received no funds from the IRWM grant program to implement projects, carrying out the majority of planning efforts with local resources, and Proposition 84 Integrated Regional Water Management funds will be of great assistance to the region, allowing water projects to continue to move forward.

Thank you for your time and consideration.

Sincerely,

WILLIAM W. MONNING
Assemblymember, 27th District

WWM:bw

Lippe Gaffney Wagner LLP www.lgwlawyers.com

SAN FRANCISCO • 329 Bryant St., Ste. 3D, San Francisco, CA 94107 • T 415.777.5600 • F 415.777.9809
SACRAMENTO • 9333 Sparks Way, Sacramento, CA 95827 • T 916.361.3887 • F 916.361.3897

Thomas N. Lippe
Brian Gaffney
Keith G. Wagner
Celeste C. Langille
Kelly A. Franger
Erin C. Ganahl

December 10, 2010

Via U.S. Mail

Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942-0085

Re: *Living Rivers Council v. State Water Resources Control Board*
(Alameda County Superior Court Case No.:RG-10-543923, filed October 27, 2010)

Dear Director:

I am writing to notify your agency, pursuant to Public Resources Code section 21167.6.5, subdivision (c), that our client, Living Rivers Council, filed a lawsuit against the State Water Resources Control Board alleging violations of the California Environmental Quality Act ("CEQA") on October 27, 2010.

Your agency has been notified because the State Water Resources Control Board identified your agency as a potential trustee or responsible agency with jurisdiction over natural resources affected by the Board's May 4, 2010 adoption of the Policy for Maintaining Instream Flows in Northern California Coastal Streams, which is the subject of this lawsuit. (See Public Resources Code § 21167.6.5, subd. (b).)

No action or response to this notice by your agency is required under CEQA.

If you have any further questions about the lawsuit or this notice, please feel free to contact us.

Thank you for your attention to this matter.

Very Truly Yours,

/S/Kelly Franger
Kelly A. Franger

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RECEIVED
DEC 13 2010
MPWMD

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
505 VAN NESS AVENUE
SAN FRANCISCO, CALIFORNIA 94102

JOHN A. BOHN
COMMISSIONER

TEL: (415) 703-2440
FAX: (415) 703-2532

Darby W. Fuerst, P.H., General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Post Office Box 85 · Monterey, CA 93942-0085

Dear Darby,

As you know, my term as Commissioner at the California Public Utilities Commission ends on December 31. Serving the people of California has been a privilege, even in view of the many difficulties which the state faces, and I am honored to have had the opportunity.

Thank you for the advice and counsel you have offered throughout the course of my term. I have enjoyed the exchange and benefited from it.

I intend to remain active and engaged in the renewable arena. For the time being my contact information is below. I hope we will stay in touch.

Best Regards,

Enjoyed our time together. Your retirement is good; you deserve a rest.

Contact Information:

John A. Bohn
220 Montgomery Street, Penthouse 10
San Francisco, CA 94104
JBohn@GlobalNetPartners.com
Tel: 914-671-8475

Ron De Hoff

Telephone: (831) 372-2800
Facsimile: (831) 372-3113

Attorney at Law

2100 Garden Road, Suite C
Monterey, CA 93940

December 15, 2010

To: All Responsible Agencies

Re: CEQA Litigation with regard to Monterey County General Plan

PLEASE TAKE NOTICE that on November 24, 2010, the following lawsuit was filed in the Superior Court of California, County of Monterey:

- The Carmel Valley Association, Inc. (Petitioner) filed a petition under the California Environmental Quality Act against the Monterey County Board of Supervisors and the County of Monterey (Respondents), Superior Court case number M109442.

The petition challenges Respondents/ actions to certify a final environmental impact report and adopt a General Plan for the County of Monterey.

On December 10, 2010, Respondents provided Petitioner Carmel Valley Association, Inc. a list of public agencies that have jurisdiction over the natural resources affected by the 2010 Monterey County General Plan.

Pursuant to Public Resources Code section 21167.6.5, subdivision (c), Petitioner gives notice of the pending action to the agencies on the attached Respondent's Service List.

Yours truly,

Ron De Hoff

Ron DeHoff

Attorney at Law

Respondent's Service List

California Department of
Fish and Game
1416 9th Street, 12th Floor
Sacramento, CA 95814

California Department of
Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

California Department of Transportation
District 5
50 Higuera Street
San Luis Obispo, CA 93401-5415

California Regional
Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

California State Parks
Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296

Carmel Area Wastewater District
3945 Rio Road
Carmel, CA 93923-8660

California Department of
Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

King City Mesa Del Rey Airport
212 South Vanderhurst Avenue
King City, CA 93930

Monterey County Airport
Land Use Commission (ALUC)
Ramon Montano
Monterey County RMA Planning Dept.
168 W Alisal Street, 2nd Floor
Salinas CA 93901

Curtis V. Weeks, General Manager Monterey
County
Water Resources Agency
893 Blanco Circle
Salinas, CA 93901-4455

Monterey Peninsula
Regional Park District
60 Garden Court, Suite 325
Monterey, CA 93940

Monterey Peninsula
Water Management District
P.O. Box 85
Monterey, CA 93942-0085

Monterey Regional
Waste Management District
P.O. Box 1670
Marina, CA 93933-1670

Monterey Regional
Water Pollution Control Agency
5 Harris Court, Building D
Monterey, CA 93940

Monterey-Salinas Transit
One Ryan Ranch Road
Monterey, CA 93940

Moss Landing Harbor District
7881 Sandholdt Road
Moss Landing, CA 95039

Monterey Bay Unified Air
Pollution Control District
24580 Silver Cloud Court
Monterey, CA 93940

Pajaro Valley Water
Management Agency
36 Brennan Street
Watsonville, CA 95076

Salinas Valley Solid Waste Authority
128 Sun Street, Suite 101
Salinas, CA 93901

California Native American
Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

Transportation Agency for
Monterey County
55-B Plaza Circle
Salinas, CA 93901

United States Fish and Wildlife Service
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, CA 93003

LAW OFFICES OF
MICHAEL W. STAMP

Facsimile
(831) 373-0242

479 Pacific Street, Suite 1
Monterey, California 93940

Telephone
(831) 373-1214

December 15, 2010

Re: CEQA Litigation with regard to Monterey County General Plan

To all agencies on the attached Service List:

Please take notice that on November 24, 2010, the following lawsuit was filed in the Superior Court of California, County of Monterey:

- The Open Monterey Project (Petitioner) filed a petition under the California Environmental Quality Act against the Monterey County Board of Supervisors and the County of Monterey (Respondents), Superior Court case number M109441.

The petition challenges Respondents' actions to certify a final environmental impact report and adopt a General Plan for the County of Monterey.

On December 10, 2010, Respondents provided Petitioner The Open Monterey Project with a document described by the County as "a list of public agencies that have jurisdiction over the natural resources affected by the 2010 Monterey County General Plan."

On behalf of Petitioner, The Open Monterey Project, a copy of this notice is being sent to the agencies on Respondents' list. (See Pub. Resources Code, § 21167.6.5, subd. (c).)

Very truly yours,

Michael W. Stamp

Service List

California Department of
Fish and Game
1416 9th Street, 12th Floor
Sacramento, CA 95814

California Department of
Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

California Department of Transportation
District 5
50 Higuera Street
San Luis Obispo, CA 93401-5415

California Regional
Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

California State Parks
Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296

Carmel Area Wastewater District
3945 Rio Road
Carmel, CA 93923-8660

California Department of
Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

King City Mesa Del Rey Airport
212 South Vanderhurst Avenue
King City, CA 93930

Monterey Bay Unified Air
Pollution Control District
24580 Silver Cloud Court
Monterey, CA 93940

Monterey County Airport
Land Use Commission (ALUC)
Ramon Montano
Monterey County RMA Planning Dept.
168 W Alisal Street, 2nd Floor
Salinas CA 93901

Curtis V. Weeks, General Manager
Monterey County
Water Resources Agency
893 Blanco Circle
Salinas, CA 93901-4455

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Regional Park District
60 Garden Court, Suite 325
Monterey, CA 93940

Monterey Peninsula
Water Management District
P.O. Box 85
Monterey, CA 93942-0085

Monterey Regional
Waste Management District
P.O. Box 1670
Marina, CA 93933-1670

Monterey Regional
Water Pollution Control Agency
5 Harris Court, Building D
Monterey, CA 93940

Monterey-Salinas Transit
One Ryan Ranch Road
Monterey, CA 93940

Moss Landing Harbor District
7881 Sandholdt Road
Moss Landing, CA 95039

California Native American
Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

Pajaro Valley Water
Management Agency
36 Brennan Street
Watsonville, CA 95076

Salinas Valley Solid Waste Authority
128 Sun Street, Suite 101
Salinas, CA 93901

Transportation Agency for
Monterey County
55-B Plaza Circle
Salinas, CA 93901

United States Fish and Wildlife Service
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, CA 93003

CALIFORNIA
AMERICAN WATER

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December 17, 2010

Darby W. Fuerst, General Manager
Monterey Peninsula Water Management District
Post Office Box 85
Monterey, CA 93942-0085

RE: Monterey Bay Shores Ecoresort Conditions of Approval No. 30 – Water Accounting Protocol

Dear Mr. Fuerst,

Pursuant to Condition No. 30 of the Water Distribution System Permit No. M10-07-L4, California American Water submits the attached Water Accounting Protocol for the Monterey Bay Shoes Ecoresort property. The Water Accounting Protocol being submitted is the same protocol prepared by Darby Fuerst on August 10, 2010. This protocol was developed by Darby Fuerst based on system operation requirements provided by California American Water.

If you have any questions, I can be reached at 831-646-3214.

Sincerely,

Craig E. Anthony
General Manager
California American Water Central District

Enclosure

Cc: Edmond Ghandour, President
Sheri Damon, Esq.

MBSE Conditions of Approval

Attachment 4

Water Accounting Protocol for SNG Property (APN 011-501-014)

Prepared by Darby Fuerst, August 10, 2010

1. At least weekly during the November through April period, Cal-Am will pump water from the Hilby Tanks [1] into its main distribution system. Based on current practice, this pumping occurs once a week for approximately four hours at a rate of 1,400 gallons per minute (gpm). As a result, approximately 1.03 acre-feet of water are pumped from the Hilby Tanks into the main distribution system each week, or approximately 4.12 acre-feet each month. This pumping is conducted to maintain water quality in the tanks.

   As the SNG property is developed and water demand increases, Cal-Am may increase the duration or frequency that water is pumped from the Hilby Tanks into the main distribution system to ensure that sufficient storage capacity is available in the Hilby Tanks for "front loading" of "prior to delivery" production of water from the Seaside Basin.

2. During the November through April period when flow in the Carmel River at the Highway 1 Bridge gage exceeds 40 cubic feet per second and Cal-Am is required to minimize its pumping from the Seaside Groundwater Basin [2], Cal-Am will pump sufficient water from its wells in the Coastal Subareas of the Seaside Groundwater Basin each week to equal or exceed the amount of water necessary to refill the Hilby Tanks [3] and serve the estimated water demand for the SNG property.

   It is expected that Cal-Am will utilize either its Plumas Well, Playa #3 Well, or both of these wells during the November through April period to serve the SNG property. Presently, the Plumas Well can pump approximately 250 gpm and the Playa #3 Well can pump approximately 350 gpm. If these wells are used to serve the SNG property, they would be pumped in advance of the weekly pumping from the Hilby Tanks. To equal the 1.03 acre-feet of water pumped from the Hilby Tanks, the Plumas and Playa #3 Wells would need to operate approximately nine hours for one day.

   If one of these wells fails, the other can serve as a backup and operate for a longer period. Similarly, if both wells fail, Cal-Am can operate one of its larger wells, e.g., Ord Grove or Paralta Well, for a shorter period to ensure that water is pumped from the Seaside Basin during this period to serve the SNG property.

3. For purposes of estimating monthly and daily water demands for the SNG property, an annual production requirement of 90 acre-feet is assumed. Monthly water demands will be estimated based on the long-term average monthly water distribution in Cal-Am's main system. For example, in January, 6.39 percent or 5.75 acre-feet of the annual production requirement is expected to occur. Similarly, in July, 10.80 percent or 9.72 acre-feet of the annual production requirement is expected to occur. Daily water demands for the property are estimated by dividing the average monthly quantities by the number of days in the respective month. For example, the average daily demand expected in January would be 0.19 acre-feet and the average daily demand expected in July would be 0.31 acre-feet.

The estimated demands will be adjusted by the reported demands to account for the construction and early operational phases before the project if fully implemented.

4. During the November through April period specified above, Cal-Am will maintain a buffer of at least 2.0 acre-feet of production from its Seaside Basin wells to ensure that sufficient water is available in advance to serve the SNG property, in the event of an unexpected increase in water demand for the property.

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[1]
Each Hilby Tank originally stored 1 million gallons or 3.07 acre-feet. These capacities have been reduced due to seismic retrofits. Presently, Hilby Tank #1 stores 730,000 gallons or 2.24 acre-feet and Hilby Tank #2 stores 823,000 gallons or 2.53 acre-feet. Total usable storage capacity in the Hilby Tanks is 1.553 million gallons or 4.77 acre-feet.

[2]
SWRCB Order WR 98-04, Condition 4, adopted February 19, 1998.

[3]
Consistent with the May 11, 2009 Court Order regarding the "commingling of water and storage from different sources", the physical water stored in the Hilby Tanks during the November through April period will be primarily derived from the Carmel River. An equivalent amount of physical water will be pumped from Cal-Am wells in the Coastal Subareas of the Seaside Groundwater Basin during this period and provided directly to Cal-Am's main distribution system.

Carmel River Steelhead Association
501 (C)(3) TIN 77-0093979
P.O. Box 1183
Monterey, CA 93940

December 24, 2010

Kathy Mrowka
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Dear Ms. Mrowka:

This letter concerns the conditional protest dismissal by the Carmel River Steelhead Association (CRSA) for Monterey Peninsula Water Management District (MPWMD) and California American Water's (CAW) change petition for Permit 20808B.

As with State Board Order WR 2007-0042-DWR, CRSA is assuming the State Water Resources Control Board (SWRCB) will divide Permit 20808B into two parts. The original permit (20808B) will be reduced by the quantity assigned to the new permit (*e.g.,* 20808C). An additional permit (*e.g.,* 20808D) would be assigned for the remaining permitted water. The new permit will allow diversions of up to 2,900 acre-feet per year at a maximum instantaneous rate of eight (8.0) cubit feet per second from December 1 of each year to May 31 of the succeeding year, to be held jointly between MPWMD and CAW for their Aquifer, Storage, and Recovery (ASR) Phase 2 project.

On February 13, 2009 CRSA submitted a protest against MPWMD's change petition for Permit 20808B. Our protest was based on environmental and legal issues, specifically that the project had the potential to adversely affect South-Central California Coast steelhead in the Carmel River which are listed as threatened under the Federal Endangered Species Act. CRSA agrees to withdraw our protest if the SWRCB includes terms and conditions in the amended Permit that require MPWMD and CAW to operate their water diversions in a manner that will directly offset unauthorized diversions by CAW with one-for-one reductions. In addition, this permit should not allow a cumulative maximum average daily diversion rate downstream of River Mile (RM) 17.6 to exceed 80 cubic feet per second, as stipulated in Table 9 of the NOAA National Marine Fisheries Service's (NMFS) 2002 report.

NMFS also protested this change petition for Permit 20808B. We have reviewed its dismissal conditions which have been incorporated into the draft Permit Conditions by MPWMD. The proposed Permit Conditions, as provided to CRSA by MPWMD and CAW, are enclosed. CRSA is in agreement with these terms and conditions.

To conclude, CRSA is willing to dismiss our protest against MPWMD and CAW's change petition for Permit 20808B if the SWRCB accepts the enclosed proposed Permit Conditions.

On a separate matter, CRSA requests that SWRCB reinstate Clause 28 of the Order in Decision 1632 into the Permit for the remaining water (*e.g.*, 20808D). Per Decision 1632, Clause 28 was to be part of any permit issued from Application 27614. As we cannot find Clause 28 in Permit 20808B it must be reinserted in the permit for the remaining water. This request has no bearing on the release of the CRSA protest.

Sincerely

COPY

Brian LeNeve
CRSA President Elect

Enclosure

Cc: Darby Fuerst, MPWMD
Robert McLean, CAW
Craig Anthony, CAW
Joyce Ambrosius, NMFS

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20808C – *Proposed Conditions v.3*

Application 27614C of Monterey Peninsula Water Management District and
California American Water
c/o Monterey Peninsula Water Management District
P.O. Box 85
Monterey, CA 93942-0085

filed on **December 16, 1982**, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittees are hereby authorized to divert and use water as follows:

1. Source of water

Source:	Tributary to:
(1) Carmel River **(5-32) Carmel River Subterranean Stream**	**Pacific Ocean** **Pacific Ocean**

within the County of **Monterey.**

2. Location of points of diversion, points of injection and points of recovery.

Points of Diversion to Offstream Storage (By California Coordinate System of 1983-Zone 4)	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
(1) San Clemente Dam: North 2,053,010 feet and East 5,765,040 feet	**NW¼ of SW¼**	**24**	**17S**	**2E**	**MD**
(5) Canada Well: North 2,092,010 feet and East 5,715,190 feet	**NE¼ of SW¼**	**17**	**16S**	**1E**	**MD**
(6) San Carlos Well: North 2,091,660 feet and East 5,717,990 feet	**NE¼ of SE¼**	**17**	**16S**	**1E**	**MD**
(7) Cypress Well: North 2,087,610 feet and East 5,724,640 feet	**SW¼ of NW¼**	**22**	**16S**	**1E**	**MD**
(8) Pearce Well: North 2,087,360 feet and East 5,726,140 feet	**SE¼ of NW¼**	**22**	**16S**	**1E**	**MD**
(9) Schulte Well: North 2,087,410 feet and East 5,729,240 feet	**SW¼ of NW¼**	**23**	**16S**	**1E**	**MD**

(10) Manor #2 Well: North 2,086,460 feet and East 5,731,340 feet	NE¼ of SW¼	23	16S	1E	MD
(11) Begonia #2 Well: North 2,085,510 feet and East 5,734,740 feet	NW¼ of SW¼	24	16S	1E	MD
(12) Berwick #7 Well: North 2,084,460 feet and East 5,735,290 feet	SW¼ of SW¼	24	16S	1E	MD
(13) Berwick #8 Well: North 2,084,510 feet and East 5,736,090 feet	SE¼ of SW¼	24	16S	1E	MD
(15) Scarlett #8 Well: North 2,084,510 feet and East 5,740,590 feet	SW¼ of SW¼	19	16S	2E	MD
(17) Los Laureles #5 Well: North 2,080,310 feet and East 5,748,590 feet	NW¼ of SE¼	29	16S	2E	MD
(18) Los Laureles #6 Well: North 2,079,510 feet and East 5,749,440 feet	SE¼ of SE¼	29	16S	2E	MD
(19) West Garzas #4 Well: North 2,075,260 feet and East 5,752,190 feet	NE¼ of SW¼	33	16S	2E	MD
(20) Garzas Creek #3: North 2,073,610 feet and East 5,753,040 feet	SW¼ of SE¼	33	16S	2E	MD
(21) Panetta #2 Well: North 2,072,110 feet and East 5,754,740 feet	NW¼ of NW¼	3	17S	2E	MD
(22) Panetta #1 Well: North 2,071,960 feet and East 5,754,640 feet	NW¼ of NW¼	3	17S	2E	MD
(17) Robles #3 Well: North 2,067,110 feet and East 5759,490 feet	NE¼ of NE¼	10	17S	2E	MD
(24) Russell #4 Well: North 2,061,810 feet and East 5,764,040 feet	SW¼ of SE¼	14	17S	2E	MD
(25) Russell #2 Well: North 2,061,410 feet and East 5,764,040 feet	SE¼ of SE¼	14	17S	2E	MD
(26) A Well: North 2,091,070 feet and East 5,706,020 feet	SE ¼ of SE ¼	13	16S	1W	MD
(27) B Well: North 2,091,970 feet and East 5,709,420 feet	NE ¼ of SW ¼	18	16S	1E	MD
(28) C Well: North 2,087,220 feet and East 5,724,470 feet	SW ¼ of NW ¼	22	16S	1E	MD

(29) D Well: North 2,087,370 feet and East 5,7729,270 feet	**SW ¼ of NW ¼**	**23**	**16S**	**1E**	**MD**
(30) E Well: North 2,084,920 feet and East 5,737,320 feet	**SW ¼ of SE ¼**	**24**	**16S**	**1E**	**MD**
(31) F Well: North 2,072,120 feet and East 5,754,670 feet	**NW ¼ of NW ¼**	**3**	**17S**	**2E**	**MD**
(32) G Well: North 2,070,270 feet and East 5,755,270 feet	**SW ¼ of NW ¼**	**3**	**17S**	**2E**	**MD**

Points of Injection and Recovery (By California Coordinate System of 1983-Zone 4)	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
Seaside Middle School #1 Injection & Recovery Well North 2,122,180 feet and East 5,735,150 feet	**SE¼ of SE¼**	**13**	**15S**	**1E**	**MD**
Seaside Middle School #2 Injection & Recovery Well North 2,122,530 feet and East 5,735,250 feet	**SE¼ of SE¼**	**13**	**15S**	**1E**	**MD**

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Municipal	**Within the boundaries of Monterey Peninsula Water Management District**					**110,000**

The points of diversion and place of use are shown on maps dated June 2008 and filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed two thousand nine hundred (2,900) acre-feet per annum to be collected to underground storage in Seaside Groundwater Basin at a maximum instantaneous rate of eight (8.0) cubic feet per second from December 1 of each year to May 31 of the succeeding year.

(0000005H)

6. Permittees' rights under this permit are junior to the rights of persons diverting water for reasonable beneficial use under valid and properly exercised riparian, overlying, and pre- and post-1914 appropriative claims of right which have a priority which is superior to the priority of Application 27614C.

(050T001)

7. Complete application of the water to the authorized use shall be made by December 1, 2025.

(0000009)

8. This permit shall not be construed as conferring upon the permittees right of access to the points of diversion.

(0000022)

9. California American Water shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with Section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

   All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein.

(0000029A)

10. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittees shall, at their expense, have the subject map(s) updated or replaced with equivalent as-built maps(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(0000030)

11. Permittees shall (1) install devices to measure the instantaneous rate and cumulative quantity of water diverted from the Carmel River and placed into underground storage and (2) install devices to measure the cumulative quantity of Carmel River water recovered from underground storage and placed to beneficial use. All measuring devices and the method of determining the quantity of water recovered from underground storage shall be approved by the State Water Resources Control Board. All measuring devices shall be properly maintained.

(0060900) (0080900)

12. Permittees shall calibrate and maintain, a continuous flow measurement device, satisfactory to the State Water Resources Control Board, at the following location in the Carmel River:

    a. Carmel River at Highway 1 Bridge (River Mile 1.1)

    If any measuring device is rendered inoperative for any reason, all diversions under this permit shall cease until such time as the device is restored to service.

    These requirements shall remain in force as long as water is diverted by permittees (or successors-in-interest) under any permit or license issued pursuant to Application 27614C.

(0060062BP) (0000204)

13. Within six months of the issuance of this permit, the permittees shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the flow bypass terms specified in this permit. The Compliance Plan shall include the following:

    a. A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow and diversion to underground storage.
    b. A time schedule for installation of these facilities.
    c. A description of the frequency of data collection and the methods for recording diversions, bypass flows and storage levels.
    d. An operation and maintenance plan that will be used to maintain gages and monitoring devices in good condition.

The permittees shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all monitoring facilities described in the Compliance Plan.

The monitoring data shall be maintained by the permittees for ten years from the date of collection and made available to the Chief of the Division of Water Rights, upon request. Any non-compliance with the terms of the permit shall be reported by the permittees promptly to the Chief of the Division of Water Rights.

(0000070)

14. The priority of this permit shall be junior to any permit issued on the applications set forth in Table 13 of Decision 1632 or for the persons named in Table 13 of Decision 1632 for an amount of water not to exceed the quantity set forth in the column titled *"Quantity Reserved by SWRCB for Future Appropriations,"* or as modified in accordance with the procedures set forth in Decision 1632, Permit Condition 10.

(0500800)

15. Permittees shall implement the Riparian Corridor Management Program outlined in the Monterey Peninsula Water Management District's November 1990 Water Allocation Mitigation Program until Application 27614C is licensed. Survey data and analysis of results shall be submitted annually to California Department of Fish and Game for review and comment.

(0490500)

16. For the protection of fisheries, wildlife, and other instream uses in the Carmel River, diversions under this permit shall be subject to maintenance of minimum mean daily instream flows as specified in Table A, Minimum Mean Daily Instream Flow Requirements. No water shall be diverted under this permit if the instream flows would be reduced by such diversion below the minimum mean daily flows specified in Table A. To ensure compliance with these conditions, by September 30 of each year, Permittees shall file a report with the Chief, Division of Water Rights, California Department of Fish and Game and National Marine Fisheries Service containing the following information:

    a. Dates during the previous period of December 1 to May 31 of the succeeding year when water was diverted under this permit; and
    b. Mean daily flows recorded at the monitoring location specified in Condition 19 during the same period.

(0400500)

17. Until the project authorized by this permit becomes fully operational, permittees shall continue to negotiate with California Department of Fish and Game to maintain, insofar as possible, a minimum 5 cfs bypass flow below San Clemente Dam as measured at the Sleepy Hollow weir.

(0400500)

18. To prevent stranding of spring and fall steelhead juveniles and smolts during critically dry conditions, permittees shall continue to implement Fisheries Mitigation Measure 4 as outlined in the Monterey Peninsula Water Management District's November 1990 Water Allocation Mitigation Program ("Rescue juveniles downstream of Robles del Rio in summer").

(0400500)

19. Permittees shall, in consultation with California Department of Fish and Game, conduct studies to determine the effectiveness of fish rescue operations specified in the Monterey Peninsula Water Management District's November 1990 Water Allocation Mitigation Program. The results shall be submitted to the Chief, Division of Water Rights, for review and approval.

(0400500)

20. Permittees shall implement the Lagoon Mitigation Program outlined in the Monterey Peninsula Water Management District's November 1990 Water Allocation Mitigation Program. Annual reports shall be

submitted to the California Department of Parks and Recreation, California Department of Fish and Game, and the Chief, Division of Water Rights for review.

(0400500)

21. Permittees shall maintain in good working order all riparian irrigation systems owned or operated by permittees under the Monterey Peninsula Water Management District's November 1990 Water Allocation Mitigation Program for use as needed during dry and critically dry water years.

(0400500)

22. Recovery of Stored Water

a. Not later than June 1 of each year, the amount of water to be recovered from groundwater storage during that year's June 1 through November 30 period shall be determined by permittees, in consultation with California Department of Fish and Game (CDFG) and National Marine Fisheries Service (NMFS), following the procedures stated in items 31 through 39 below.

b. The maximum amount for recovery each year (pumping of water previously diverted from the Carmel River and injected in the Seaside Groundwater Basin) was determined to be 1,500 acre-feet, using the logic developed for the computer simulation made by Monterey Peninsula Water Management District's (MPWMD) Carmel Valley Simulation (CVSIM) model. In any year, an alternative recovery amount may be agreed upon by permittees, CDFG, and NMFS. The selected recovery amount shall be deemed the "Determined Recovery Amount."

c. To the maximum extent operationally feasible, during each recovery season, permittees shall use their best efforts to recover the Determined Recovery Amount.

d. Each year at the end of the injection season, the amount of water injected into the Seaside Basin during the current injection season shall be calculated. If this amount equals or exceeds the Determined Recovery Amount, then the Determined Recovery Amount shall be recovered. Any water injected during the current injection season that is in excess of the Determined Recovery Amount shall be added to "Carryover Storage."

e. If the total amount of water injected during the current injection season is less than the Determined Recovery Amount, and the Carryover Storage from previous injection seasons is sufficient to make up the difference, then the Determined Recovery Amount shall be recovered. In this case, water from Carryover Storage shall be produced to supplement water injected during the current injection season to meet the Determined Recovery Amount. Any water that is produced from Carryover Storage to meet the Determined Recovery Amount shall be subtracted from Carryover Storage.

f. If the total amount of water injected during the current injection season is less than the Determined Recovery Amount, and the Carryover Storage from previous injection seasons is insufficient to make up the difference, then the Determined Recovery Amount cannot be met. Instead, the amount of water recovered that year will be the total amount injected during the current injection season plus the total amount of Carryover Storage, if any, from previous injection seasons.

g. Following the above decisions, if the amount of water stored by injection in the Seaside Groundwater Basin exceeds 7,200 acre-feet on June 1, the amount in excess of 7,200 acre-feet shall be added to the amount available for recovery that year.

h. The actual amount of water produced from storage for recovery each year shall be uniformly distributed over the recovery season, unless modified and agreed upon by permittees, CDFG, and NMFS.

i. The water produced by permittees from the Aquifer Storage and Recovery (ASR) wells will be used to offset production from the Carmel River that would otherwise occur during the low-flow season. In any year that ASR water is recovered and delivered to the California American Water Company (Cal-Am) distribution system, Cal-Am shall, to the maximum extent operationally feasible, reduce water diversion from its Carmel River sources. The amount of ASR water that is recovered each year shall be subtracted from Cal-Am's total annual diversion allowance from its Carmel River sources in excess of Cal-Am's recognized rights.

j. The following procedures will be implemented to facilitate cooperative compliance monitoring of the reductions in dry season (June-November) diversions from the Carmel River Aquifer that will be offset by utilizing water recovered from the ASR wells:

1) Cal-Am will provide copies by e-mail of its weekly "Carmel Valley & Seaside Production Report" to one designated contact each for CDFG and NMFS.
2) This e-mail report will show daily values in acre-feet of the water produced from each source, vs. daily targets. These daily targets are derived from the monthly production targets developed as part of the Cal-Am/MPWMD Quarterly Water Budget process.
3) If the amount of water produced differs significantly from daily targets for more than two weeks, the designated CDFG or NMFS contact can choose to call for the four parties to meet and confer on ongoing Cal-Am operations during the first five business days of the succeeding month.

In any case, these production numbers are and will continue to be reviewed as part of the Cal-Am/MPWMD Quarterly Water Budget process, which includes two regularly scheduled quarterly meetings during the dry season between permittees, CDFG, and NMFS. CDFG's and NMFS' ability to call for a monthly meeting to review Cal-Am's patterns of production for compliance with the intended offset of Carmel River Aquifer diversions by production from the ASR wells, will be in addition to the regularly-scheduled Quarterly Water Budget Meetings.

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)

B. Progress reports shall be submitted promptly by permittees when requested by the State Water Board until a license is issued.
(0000010)

C. Permittees shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.
(0000011)

D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittees without unreasonable draft

on the source. Permittees may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittees in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittees and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the s shall obtain authorization for an incidental take prior to construction or operation of the project. Permittees shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

G. Permittees shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittees is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittees. If a stream or lake agreement is not necessary for this permitted project, the permittees shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittees take it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

Barbara Evoy
Deputy Director for Water Rights

Dated:

TABLE A	
MINIMUM MEAN DAILY INSTREAM FLOW REQUIREMENTS (see Condition 23)	
December 1-April 15	**April 16-May 31**
Prior to Carmel River lagoon opening to the ocean [1]: May divert with minimum bypass of **40 cfs** at the Carmel River at Highway 1 Bridge gage. **Following Carmel River lagoon opening to the ocean:** May divert with minimum bypass of **120 cfs** at the Carmel River at Highway 1 Bridge gage.	May divert with minimum bypass of **80 cfs** at the Carmel River at Highway 1 Bridge gage.

1 On December 1, if water in the lagoon is flowing to the ocean, the lagoon shall be deemed to be open to the ocean. If on December 1 water in the lagoon is not flowing to the ocean, the lagoon shall be deemed to be open to the ocean when the lagoon level drops rapidly from a stable elevation to a lower elevation as evidenced by the water surface elevation gage located at the Carmel Area Wastewater District effluent pipeline across the south arm of the lagoon. This elevation gage is operated by Monterey Peninsula Water Management District.

State Water Resources Control Board

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

Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

In Reply Refer to:kdm:30215B

CERTIFIED MAIL

DEC 3 0 2010

Robert MacLean
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. MacLean:

ORDER CANCELING APPLICATIONS 30215B, 30644 AND 30715, CARMEL RIVER AND CARMEL RIVER SUBTERRANEAN STREAM IN MONTEREY COUNTY

Enclosed is an order canceling Applications 30215B, 30644 and 30715 because the applications conflict with the Declaration of Fully Appropriated Streams. A cancellation order was originally issued on September 30, 2010. The post office returned the order as undeliverable. Therefore, the September 30 order has been rescinded and a new cancellation order issued.

In accordance with California Code of Regulations, title 23, sections 768 and 769, you may petition the State Water Resources Control Board (State Water Board) for reconsideration of the order. Section 768 requires that the petition be submitted within 30 days of the date of the order, and be based on one or more of the causes listed in that section. The petition must contain the information required by section 769.

It is the applicant's responsibility to remove or modify any diversion works or impoundments to ensure that water is no longer diverted. The applicant should consult with the Department of Fish and Game and the Regional Water Quality Control Board to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. These agencies may require a permit or other approval prior to any construction activity.

Please be advised that any diversion of water from the points of diversion identified in this application may be subject to administrative civil liability of up to $500 per day without further notice, pursuant to California Water Code section 1052, unless the diversion is covered by an existing right. In addition, the State Water Board may issue a cease and desist order in response to an unauthorized diversion or threatened unauthorized diversion in accordance with Water Code section 1831.

If you have any questions or wish to file a new application at a later date, please contact Katherine Mrowka, the senior staff person handling this matter at (916) 341-5363.

Sincerely,

Katherine Mrowka

for Phillip Crader, Acting Manager
Water Rights Permitting Section

Enclosure

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

Tim Miller
California American Water Company
303 H Street, Suite 250
Chula Vista, CA 91910

Jon D. Rubin
Deipenbrock, Harrison
400 Capitol Mall, 18th Floor
Sacramento, CA 95814

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

DIVISION OF WATER RIGHTS

In the Matter of Applications 30215B, 30644 and 30715

California-American Water Company

ORDER CANCELING APPLICATIONS

SOURCE: Carmel River and Carmel River Subterranean Stream

COUNTY: Monterey

WHEREAS:

1. California-American Water Company (Cal-Am or Applicant) filed water right applications with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) to divert water from the Carmel River and Carmel River subterranean stream as follows:

   - Application 30215B filed on January 26, 1993, requesting the right to divert 42.6 cubic feet per second (cfs);
   - Application 30644 filed on November 13, 1996, requesting the right to divert 21 cfs and collect 24,800 acre-feet per annum to storage; and
   - Application 30715 filed on February 3, 1998, requesting the right to divert 16.1 cfs.

2. The applications conflict with the Declaration of Fully Appropriated Streams (Declaration). In a December 17, 1999 letter, Applicant requested that the State Water Board lift the Declaration listing the Carmel River as fully appropriated throughout most of the year. Cal-Am asked that the State Water Board hold any action on the request to revise the Declaration in abeyance in case (a) the California Public Utilities Commission denies Cal-Am's pending request for authority to construct the Carmel River Dam Project or (b) the Monterey Peninsula Water Management District (District) takes action that either actually or effectively precludes Cal-Am from proceeding with the Carmel River Dam Project. If either of those events occur, Cal-Am maintains that the water appropriated to Permit 20808 of the District should be declared by the State Water Board to be available for appropriation by Cal-Am pursuant to its pending Applications 30215B, 30644 and 30715.

3. The Division's January 21, 2000 letter accepted Cal-Am's December 17 letter as a petition for modification of the Declaration and agreed to hold any action on this matter in abeyance. The Division advised Cal-Am that all petitions to modify the Declaration must be accompanied by the information specified in California Code of Regulations, title 23, section 871, subdivision (c)(1). The Division stated that Cal-Am would be expected to furnish information to address section 871 prior to activating its petition. The practical effect of this action is 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 at that time.

4. On March 24, 2000, the Division advised Cal-Am that the water rights process could take several years for highly contested projects. Therefore, it was imperative that the Division start processing the applications for projects that Cal-Am may eventually construct. Cal-Am was asked to identify the applications and specific project elements that it was ready to pursue and the Division would issue the public notice accordingly. A showing of due diligence was also requested in order to maintain the applications. Cal-Am did not submit a showing of due diligence.

5. Cal-Am's May 16, 2000 reply stated that Cal-Am was actively pursuing development of the Carmel River Dam and Reservoir Project. Cal-Am was seeking use of the District's existing permits for this project. The California Public Utilities Commission was developing an alternative water supply project(s) list, should the reservoir project not proceed. If it became clear that the reservoir project could not proceed, Cal-Am would renew its previous request that the State Water Board lift its declaration that the Carmel River is fully appropriated and proceed with a decision on that subject so that Cal-Am's various pending water right applications might be noticed, heard and resolved. In the meantime, Cal-Am informed the Division that it would continue to pursue the reservoir project.

6. On March 15, 2005, Cal-Am was requested to enter into a Memorandum of Understanding (MOU) for preparing a document to comply with the California Environmental Quality Act for the applications and provide the name of the consultant that would be preparing the water availability analysis for the filings.

7. On April 20, 2006, Cal-Am entered into an MOU for preparation of the required environmental document. HDR Surface Water Consultants (HDR) was the consultant selected to prepare the document.

8. On August 6, 2007, the Division requested the information required by California Code of Regulations, title 23, section 871, subdivision (c)(1), upon which to base a decision to revise or revoke the Declaration, or alternatively to revise the applications to conform to the Declaration. The information was requested pursuant to Water Code section 1275. Cal-Am was advised that failure to either show cause for revision of the Declaration or revise the applications to conform to the Declaration would result in cancellation of Applications 30215B, 30644 and 30715 without further notification.

9. In an undated letter received by the Division on September 11, 2007, Cal-Am contended that the State Water Board should act on the pending request for extension of time filed by the District for Permits 11674B and 20808 prior to requiring Cal-Am to take action relating to the petition or its applications. Cal-Am reiterated its request to have any action related to all pending Cal-Am applications held in abeyance until final action has been taken on the District's filings.

10. In 2007, Cal-Am and the Monterey Peninsula Water Management District (District) agreed to jointly develop the Seaside groundwater banking project under the District's water rights (see Permit 20808B (Application 27614B), for example).

11. On November 6, 2007, HDR informed the Division that it had requested a contractual authorization to proceed from Cal-Am to prepare the final work plan and schedule for developing the environmental document. HDR would contact the Division upon authorization to schedule a meeting. The letter stated that no additional progress had been made by HDR for Applications 30215B, 30644 and 30715.

12. To date, the Division has not received the required showing pursuant to California Code of Regulations, title 23, section 871. Cal-Am has not modified the applications to conform to the Declaration.

13. The applications have not been noticed due to the conflict with the Declaration.

14. Applicant, after due notice, has failed to submit information requested pursuant to section 1275 of the Water Code or to show good cause why additional time should be allowed. (Wat. Code, § 1276.)

15. The State Water Board has delegated the authority to cancel applications to the Deputy Director for Water Rights (Deputy Director) pursuant to Resolution No. 2007-0057. (Attachment to Resolution No. 2007-0057, section 4.5.2.) The Deputy Director has redelegated this authority to the Assistant Deputy Director for Water Rights in the absence of the Deputy Director, pursuant to redelegation order dated October 4, 2007.

16. On September 30, 2010, the Division issued an order cancelling Applications 30215B, 30644 and 30715. The post office returned the order as undeliverable. Consequently, the September 30, 2010 order should be rescinded and a new cancellation order issued.

THEREFORE, IT IS ORDERED THAT:

1. The September 30, 2010 order cancelling Applications 31215B, 30644 and 30715 is rescinded.

2. Applications 30215B, 30644 and 30715 are hereby canceled.

It is the Applicant's responsibility to remove or modify any diversion works or impoundments to ensure that water is no longer diverted. The Applicant should consult with the Department of Fish and Game and the Regional Water Quality Control Board in order to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. These agencies may require a permit or other approval prior to any construction activity.

Applicant is hereby put on notice that any diversion of water from the points of diversion proposed under these applications may be subject to administrative civil liability of up to $500 per day without further notice, pursuant to Water Code section 1052. The State Water Board also may issue a cease and desist order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831.

STATE WATER RESOURCES CONTROL BOARD

James V. Kassel
for *Barbara Evoy*
Deputy Director for Water Rights

Dated: DEC 30 2010

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Hastings Natural History Reservation
38601 E. Carmel Valley Road
Carmel Valley, CA 93924
Office: (831) 659-2664
Fax: (831) 659-0148

A Biological Field Research Station
Museum of Vertebrate Zoology

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Jan 4, 2011

Mr. Peevey,

I am writing to support the continued streamflow monitoring being done by the Monterey Peninsula Water Management District on the Carmel River. A series of stream and river gauges provide the background information necessary for historical and ongoing hydrological research. The Hastings Natural History Reservation is cooperating with the MPWMD to monitor Finch Creek, an upper tributary to the Carmel River, with Greg James. The funding for this monitoring is part of the proposed budget reductions for MPWMD. A description of the cooperatively managed stream gauge being run by UC Berkeley's Hastings Reserve and MPWMD is found on a website:

http://www.hastingsreserve.org/Weather/FinchCreekStreamGauge.html

Hydrologists in the Carmel River and from research institutions in California (e.g. CSU Monterey Bay) and elsewhere in the US use these kinds of data, uniquely collected by the MPWMD on the Carmel River, for a wide variety of teaching and studies related to the management of this resource. If funding cuts have to be made elsewhere at MPWMD, please maintain the river and streamflow monitoring program on the Carmel River.

Best regards,

Mark R. Stromberg

Mark R. Stromberg, Ph.D.
Resident Director

Cc: Greg James, MPWMD
Doug Smith, CSUMB

Carmel River Watershed Conservancy

501C (3) Nonprofit Corporation. Tax ID # 77-0548869
Phone: 831-375-5376 Fax: 831-655-4830
E-mail: Letendre@sbcglobal.net
WebPage http://www.carmelriverwatershed.org
Office Suite 7b-510 Lighthouse Avenue, Pacific Grove, Ca 93950

RECEIVED
JAN - 5 2011
MPWMD

January 5, 2011

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Via e-mail to CPUC Public Advisor
public.advisor@cpuc.ca.gov

SUBJECT: Support for Application No. 10-01-012 to Continue Collection of Monterey Peninsula Water Management District User Fee for Carmel River Mitigation Program and Aquifer Storage and Recovery Project

Dear President Peevey:

I am writing to support Application No. 10-01-012 submitted by California American Water Company (Cal-Am) to continue collection of the Monterey Peninsula Water Management District (MPWMD or District) User Fee to fund the Carmel River Mitigation Program and the Aquifer Storage and Recovery (ASR) Project. The User Fee has been collected for 26 years as a surcharge on the Cal-Am water bill. Importantly, the public directly participates in MPWMD program oversight and budget development through local public hearings each year.

Cal-Am and MPWMD have cooperated for nearly two decades on the Mitigation Program, which is required by the State to offset the environmental impacts of the Monterey Peninsula's use of water from the Carmel River. Components include fish rescue (thousands every year are rescued) and rearing, streamside erosion control and restoration, lagoon management, surface and groundwater monitoring, and water conservation. Cal-Am and MPWMD have also cooperated on the ASR Project, which enhances the Carmel River by diverting excess winter streamflow into the Seaside Basin, then extracting stored Seaside Basin water during summer. These actions have significantly improved river conditions to the benefit of people, fish and wildlife.

Funding for this successful partnership is threatened by the December 2010 Proposed Decision issued by Administrative Law Judge Maribeth Bushey. The Proposed Decision would deny Cal-Am's Application to reinstate the District's User Fee on the Cal-Am bill, even though Cal-Am, MPWMD and the Division of Ratepayer Advocates (DRA) support the application and have signed a Settlement Agreement. Cal-Am has repeatedly stated that MPWMD is best equipped to carry out the Mitigation Program in a cost-effective manner. We agree.

The Proposed Decision includes inaccurate assertions about District programs, but does not allow MPWMD the opportunity to set the record straight in a public hearing. The Proposed Decision is also flawed because it interferes with the authority of a governmental agency to lawfully enact fees for needed services.

I am concerned that the Proposed Decision would interrupt the long-standing MPWMD fish rescue and rearing, riparian, lagoon, hydrology, water conservation and water supply programs that have protected our primary source of water supply. If the MPWMD program ends, Cal-Am is required to take it over. However, the Proposed Decision makes no provision for Cal-Am to start a new program on its own. This is no time to interrupt the Mitigation Program activities while the community strives to comply with the many state and

federal directives that affect our water supply. Volunteers help with this program but cannot be relied on to carry the load that MPWMD staff carries.

For the above reasons, I encourage you to approve Cal-Am's Application No. 10-01-012 and to modify the Proposed Decision to accept the Settlement Agreement among Cal-Am, MPWMD, and DRA. Alternatively, a public hearing should be set to allow MPWMD to answer questions and provide factual information about its programs. I believe the District Mitigation Program and ASR Project User Fees should continue as they are non-duplicative, reasonable and prudent.

Thank you for your consideration.

Sincerely,

Lorin Letendre
President
Carmel River Watershed Conservancy
Cc: CRWC Board of Directors

CALIFORNIA
AMERICAN WATER

Robert G. MacLean
President
1033 B Avenue
Suite 200
Coronado, CA 92118
robert.maclean@amwater.com

P 619.435.7401
F 619.435.7434

January 6, 2011

Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93942
Attn: Darby Fuerst, General Manager

Re: Reimbursement Agreement for Mitigation and ASR Activity Expenses; Notice of Intent to Terminate Reimbursement Agreement for Convenience; Request to Meet and Confer on Modification to Reimbursement Agreement.

Dear Mr. Fuerst:

As you know, we are very disappointed with the Proposed Decision issued by the assigned administrative law judge on December 21, 2010 rejecting the all-party settlement relating to the Water Management District's User Fee. Approval of the settlement would ensure on-going funding of the important Mitigation Program currently administered by the Water Management District as well as the Aquifer Storage and Recovery (ASR) Program. As we work together to secure an acceptable final decision, it is appropriate that we also discuss the path forward in the event a decision is further delayed or is not consistent with the settlement agreement.

Section VII of the Reimbursement Agreement allows either party to terminate the Reimbursement Agreement for convenience. In light of the proposed decision and the uncertain schedule on which the Commission may act on the proposed decision, California American Water hereby invokes its right to terminate for convenience effective 90 days from the date of this letter.

We believe California American Water and the Water Management District have worked successfully as partners implementing these programs and we recognize the importance of the uninterrupted continuation of these programs. Because of the uncertain schedule at the Commission and the termination provisions of the Reimbursement Agreement, the Reimbursement Agreement may terminate as early as February 24th based on the CPUC's schedule, as late as April 6th, 90

days from now. We would like to schedule meetings immediately to discuss all avenues for continued support and operation of these programs.

Thank you for your attention to this letter. I will contact you to schedule meetings to further discuss these important issues.

Best Regards,

Robert G. MacLean
President
California American Water

RECEIVED
JAN -6 2011
MPWMD

Thomas Christensen
1001 Prescott Ave
Monterey, CA 93940

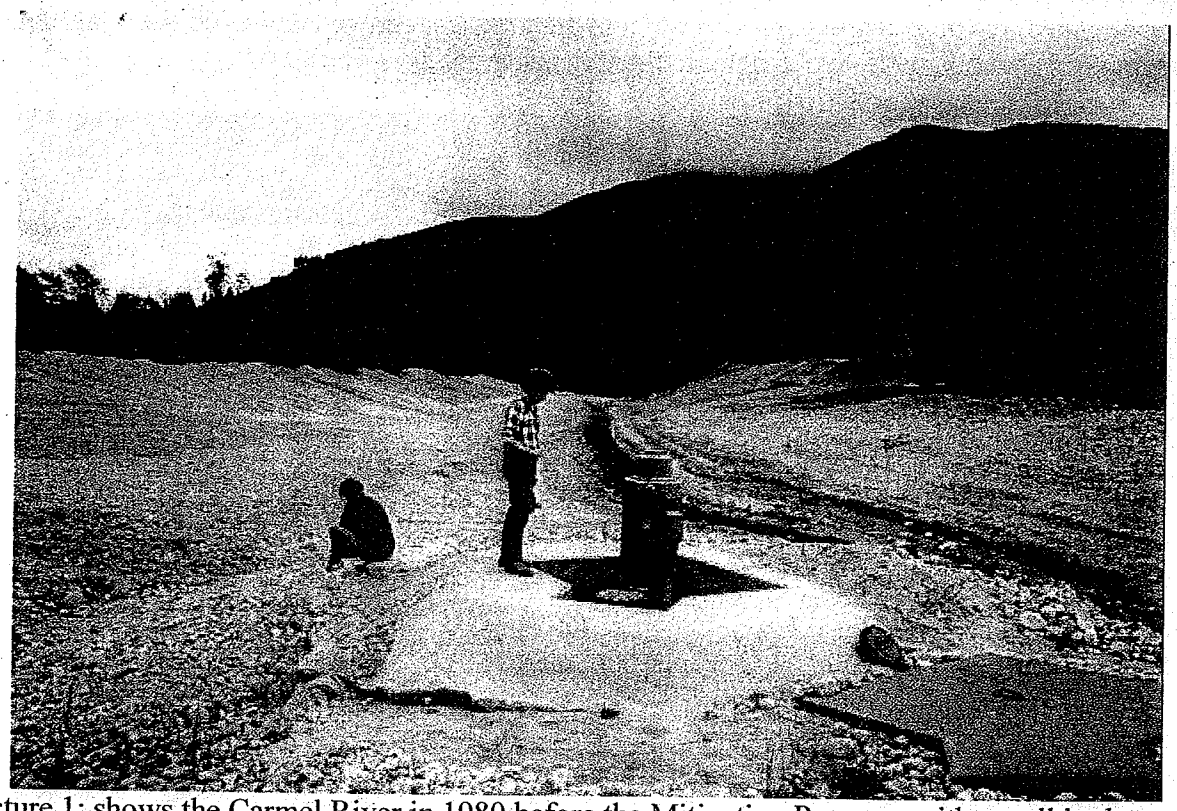
January 6, 2011

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

SUBJECT: California American Water (Cal-Am) and Monterey Peninsula Water Management District (MPWMD) User Fee Application (No. 10-01-012)

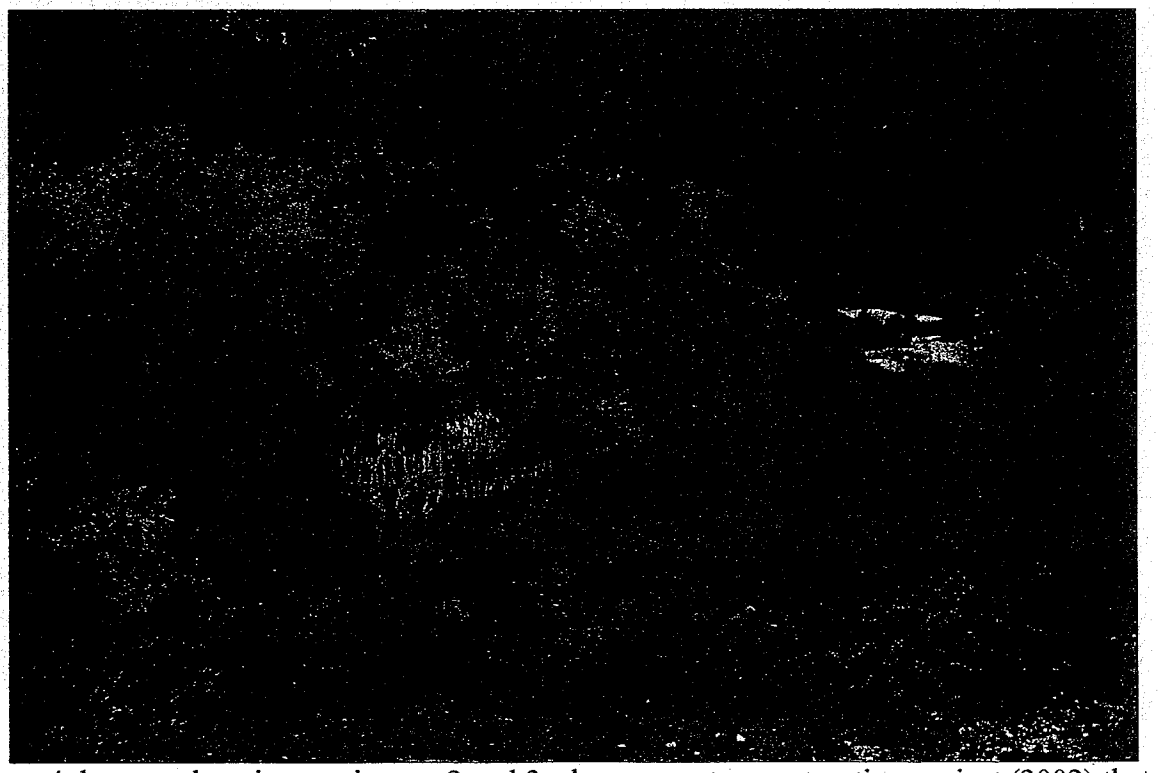
Dear President Peevey:

I am writing in support of the MPWMD's Mitigation Program, Aquifer Storage and Recovery Project, and User Fee. This fee has been collected for 26 years as part of the Cal-Am bill and has led to amazing results along the Carmel River. One only has to look at some of the historical photos I included below, to show how water extraction without mitigation can degrade the riparian corridor (streamside vegetation), dry up the river, and impact threatened species like steelhead and California red-legged frog.



Picture 1: shows the Carmel River in 1980 before the Mitigation Program with a well in the middle of the channel with little riparian vegetation to protect banks and the river almost non-existent

Picture 3 (late-1980's) from the same location as picture 2: shows how user fee funds were used to restore the bank by reshaping the channel and planting riparian vegetation on the bank. These trees have been irrigated to offset water extraction (note the dry river bed)



Picture 4 the same location as pictures 2 and 3: shows a mature restoration project (2002) that has been irrigated and maintained to offset impacts from groundwater pumping for 23 years.

These are just a few examples of the benefits of MPWMD's Mitigation Program. Other components of the program include fish rescue and rearing, lagoon management, surface and groundwater monitoring, and water conservation.

The Aquifer Storage and Recovery (ASR) Project has also enhanced summer-time flows on the Carmel River by diverting excess winter streamflow into the Seaside Basin, then extracting water stored in the Seaside Basin during summer. This allows summer pumping to be reduced on the lower Carmel River. The combination of all these actions have benefited the public, steelhead and wildlife dependent on the river. Many locals have said they have not seen the river look so good in years.

The proposed decision by Administrative Law Judge Maribeth Bushey of the CPUC (preventing the placement of the User Fee back on the Cal-Am bill) threatens the Mitigation Program, the ASR Project, and MPWMD's and Cal-Am's partnership to offset impacts associated with community water use.

It is my hope that you will approve Cal-Am's Application No. 10-01-012 or at the very least allow a public hearing that will allow MPWMD, Cal-Am and the public to show all the benefits that have come from the User Fee and to address any concerns the CPUC may have.

Sincerely,

Thomas Christensen

RECEIVED
JAN - 6 2011
MPWMD

---------- Forwarded message ----------
From: **brenda buran** <brendaburan@gmail.com>
Date: Thu, Jan 6, 2011 at 1:59 PM
Subject: Application No. 10-01-012
To: public.advisor@cpuc.ca.gov

Dear Commission,

I am a long time resident of Monterey and a teacher at Carmel High School. I come from the Central Valley and grew up knowing only one kind of river, the San Joaquin. It was a dry, cracked bed with mud puddles and dusty scrub brushes, serving as a garbage dump for many people. Only in recent years has it begun to recover, thanks to restoration efforts.

Living on the Monterey Peninsula, I have learned the beauty and value of a running, green banked river, not littered with trash but full of fish. The Carmel River is this way because of the constant efforts expended by the Monterey Peninsula Regional Water District. In my years here I have seen garbage sites along the Carmel River disappear, new plants grow, and fish return. This is wonderful, but the work is not done. The Carmel River continues to be over pumped, encroached upon, and endangered.

I want to voice my support of application no. 10-01-012, which would provide continued funding in support of restoration projects on the Carmel River through a user fee on the Cal Am water bill. I am a bill payer, and happy to contribute something back the river that sustains me and my family.

Please show your support of the river and the community that cares about it by voting in support of application no. 10-01-012.

Thank you for your attention and consideration.

Sincerely,

Brenda Buran

1/7/2011

RECEIVED
JAN -6 2011
MPWMD

Nicole Nedeff
11630 McCarthy Road
Carmel Valley, CA 93924

January 6, 2011

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Via e-mail to CPUC Public Advisor
public.advisor@cpuc.ca.gov

SUBJECT: Support for Application No. 10-01-012, Continue Collection of Monterey Peninsula Water Management District User Fee for Carmel River Mitigation Program and Aquifer Storage and Recovery Project.

Dear President Peevey:

I support Application No. 10-01-012 submitted by my local water purveyor, California American Water Company, to continue the user fee that supports the Monterey Peninsula Water Management District's Carmel River Mitigation and Aquifer Storage and Recovery programs.

Cal-Am has collected the user fee for more than 25 years as a surcharge on their water bills to the community. The Monterey Peninsula region benefits from water taken from the Carmel River and Seaside Basin aquifers and we should help foot the bill that helps mitigate for that water supply.

To offset the environmental impacts associated with water extraction from the Carmel River, Cal-Am and the Water District have cooperated for nearly two decades on the Mitigation Program - it is a State requirement. The Mitigation Program funds fisheries enhancement, streamside erosion control, riparian habitat restoration, lagoon management, surface and groundwater monitoring, and water conservation. Cal-Am and the Water District have also cooperated on the Aquifer Storage and Recovery Project, which relieves the Carmel River by diverting excess winter streamflow into the Seaside Basin, then extracting stored Seaside Basin water during summer. Both of these programs improve river conditions for people, fish and wildlife. Cal-Am repeatedly states that the Water District is best equipped to carry out this river mitigation work in a cost-effective manner.

Funding for this successful partnership and river enhancement program is threatened by the December 2010 Proposed Decision issued by Administrative Law Judge Maribeth Bushey.

The Monterey Peninsula community created the Water District after a drought crisis in the mid-1970's. In the 1980's river-front property owners along the Carmel River created their own Benefit Assessment District to tax themselves for extra streambank protection. Key to the defense of the Carmel River is that the community can participate in Water District

oversight and budget development through public hearings and the opportunity to vote for representatives to the Board of Directors. Public participation is vital to maintain Carmel River resources. There has been no public hearing where the community can provide input regarding the proposed elimination of user fees that fund programs to benefit the river.

I urge you to approve Cal-Am's Application No. 10-01-012 and modify the Proposed Decision to accept the Settlement Agreement among Cal-Am, the Water District and the Division of Ratepayer Advocates. It is important to continue collecting the user fee to fund the Water District's river enhancement programs.

Thank you for your consideration.

Sincerely,

Nicole Nedeff

Nicole Nedeff

Received by MPWMD January 6, 2011

RECEIVED
JAN -6 2011
MPWMD

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dr. Mr. Peevey,

I am astounded at the wrongfulness of the decision by Judge Maribeth Bushey to deny Cal-Am's Application to reinstate the Monterey Peninsula Water Management District's User Fee on the Cal-Am bill. This fee pays for local Monterey persons to perform work required to offset the long term environmental impacts of our use of water from the Carmel river.

This work is required by the California Environmental Quality Act (CEQA) in response to identified impacts caused by Cal-Am on the Carmel river and the Seaside groundwater basins.

There is no way that Cal-Am, an out-of-state company, can accomplish this work on their own in the immediate future. Costs for Cal-AM to do so would be outrageous. They hire temporary, inexperienced people and pay them poorly for poor work. Their CEO makes fortunes. You must know that Cal-Am *must* take over the work if Ms. Bushey's decision stands.

I want you to act on behalf of the citizens of California and approve Cal-Am's application No. 10-01-012 to accept the Settlement Agreement among Cal-Am, MPWMD, and DRA. To disrupt important ongoing work in the areas of fish-rearing, fish rescue, erosion control, and restoration would be ill-conceived and foolish.

Respectfully,

Dennis L. Knepp, Ph.D.
2 White Tail Lane
Monterey CA 93940

Received via email 1/6/2011

51

Carmel Valley Association

P.O. Box 157, Carmel Valley, California 93924
www.carmelvalleyassociation.org

RECEIVED
JAN - 6 2011
MPWMD

January 7, 2011

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Also sent as Email attachment to: public.advisor@cpuc.ca.gov

SUBJECT: Support for Application No.10-01-0122 to Continue Collection of Monterey Peninsula Water Management District User Fee for Carmel River Mitigation Program and Aquifer Storage and Recovery Project

Dear President Peevey:

The Carmel Valley Association has been actively participating in water issues affecting our area since 1949. Representing hundreds of families, we are the only residents' association speaking for all the Carmel Valley. Our members have spent many thousands of hours working with the Monterey Peninsula Water Management District (MPWMD) and public environmental agencies and organizations in efforts to save our valley from further environmental degradation and from the past effects of over-drafting the Carmel River aquifer.

Our Board strongly supports the Carmel River Mitigation Program and the Aquifer Storage and Recovery Project, along with the MPWMD user fee that supports these programs. We believe the *December 2010 Proposed Decision* by Administrative Law Judge Maribeth Bushey directly threatens these programs, along with threatening the productive partnerships between Cal-Am, MPWMD, the public, and the dozens of other governmental and non-governmental organizations who are participating in these projects.

1) **The *Proposed Decision* does not acknowledge 20 years of successful environmental improvements.** The Carmel River Mitigation program is successfully restoring the river – including erosion controls, fish and wildlife management and lagoon management. Surface and groundwater monitoring programs help ensure future success in this effort, along with the health of our future water supply. This is a complex undertaking, requiring cooperation from multiple governmental agencies. It is unlikely it could be successful without the technical resources of MPWMD and their dedication to public process.

2) **<u>The *Proposed Decision* does not acknowledge the importance of the ASR Project to present and future water supplies.</u>** The ability to store excess Carmel River water in winter months, and thereby reduce summer diversions, is absolutely necessary to meeting the year-to-year requirements of the State Water Resources Control Board 95-10 ruling, and also is an integral part of the Regional Water Plan desalination project. And like the Carmel River Mitigation Project, the ASR project is technically difficult, involves working with multiple public agencies, and needing public support. Apparently the ALJ is unaware that the ASR Project is an essential element of the Regional Plan, and in approving the *Proposed Decision* the CPUC would be directly undermining their recent decision approving that plan.

3) **<u>The *Proposed Decision* states (illogically) that the MPWMD funding arrangement is not in the public interest.</u>** The ALJ argues that the fee based on volume of water used is unfair to current users. All of the funded projects – Carmel River Mitigation, ASR, and conservation -- are required to mitigate past over-drafting of the Carmel River Aquifer. They are not designed to expand water supply for future growth. Given that it's not realistic to collect damages from past users, charging the cost of past damages to current users is more equitable and prudent than shifting those costs to future users through the sale of bonds or other borrowing. These programs and their funding have received on-going public support, including support by the Division of Ratepayer Advocates (DRA).

4) **<u>The *Proposed Decision* claims a lack of accountability.</u>** Given the public fish bowl that MPWMD operates in – from budgeting these projects through reporting on their results – this accusation is unfounded. The CPUC should not accept this assertion without inviting a full response from Cal-Am and MPWMD. As the accusation now stands, without an opportunity for rebuttal, it is potentially more damaging to the credibility of the ALJ and the CPUC than of those accused.

The Carmel Valley Association strongly encourages you to approve Cal-Am's Application No. 10-01-012 and to modify the *Proposed Decision* to accept the Settlement Agreement among Cal-Am, MPWMD and DRA. If needed, a public hearing should be set to resolve any questions remaining. **As Carmel Valley residents we feel we have an extensive stake in the outcome of your decision, both as ratepayers and as caretakers of the Carmel River and our valley.**

Thank you for giving careful attention to our concerns,

Todd Norgaard
Chair, CVA Water Committee

Christine Williams
CVA President

RECEIVED
JAN 10 2011
MPWMD

David H. Dettman
DHDettman, Aquatic Biologist
655 Pedro Ave.
Ben Lomond, CA 95005

January 10, 2011

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Via e-mail to CPUC Public Advisor
public.advisor@cpuc.ca.gov

SUBJECT: Support for Application No. 10-01-012 to Continue Collection of Monterey Peninsula Water Management District User Fee for Carmel River Mitigation Program and Aquifer Storage and Recovery Project

Dear President Peevey:

I am writing to support Application No. 10-01-012 submitted by California American Water Company (Cal-Am) to continue collection of the Monterey Peninsula Water Management District (MPWMD or District) User Fee to fund the Carmel River Mitigation Program and the Aquifer Storage and Recovery (ASR) Project, and to urge the California Public Utilities Commission (CPUC) to reject Administrative Law Judge, Maribeth Bushey's December 2010 Proposed Decision in this matter. The User Fee has been collected for 26 years as a surcharge on the Cal-Am water bill to fund critical environmental programs at MPWMD without duplicating any efforts that may or may not have been conducted by Cal-Am, and serves to maintain the public trust resources of the Carmel River Basin. Importantly, the public directly participates in MPWMD program oversight and budget development through local public hearings each year.

Cal-Am and MPWMD have cooperated for nearly two decades on the Mitigation Program, which is required by the State to offset the environmental impacts of the Monterey Peninsula's use of water from the Carmel River. Components include fish rescue and rearing, streamside erosion control and restoration, lagoon management, surface and groundwater monitoring, and water conservation. None of these specific activities are currently carried out by Cal-Am, but are implemented in an efficient manner by MPWMD, usually with Cal-Am cooperation. Most recently, Cal-Am and MPWMD have cooperated on the ASR Project, which enhances the Carmel River by diverting excess winter streamflow into the Seaside Basin, then extracting stored Seaside Basin water during summer. This mode of operating the Cal-Am system has improved flow and habitat conditions to the benefit of people, fish and wildlife.

Funding for successful the Mitigation Program and the Cal-Am/MPWMD partnership is threatened by the December 2010 Proposed Decision issued by Administrative Law Judge Maribeth Bushey. The Proposed Decision would deny Cal-Am's Application to reinstate the District's User Fee on the Cal-Am bill, even though Cal-Am, MPWMD and the Division of Ratepayer Advocates (DRA) support the application and have signed a Settlement Agreement.

Cal-Am has repeatedly stated that MPWMD is best equipped to carry out the Mitigation Program in a cost-effective manner.

The Proposed Decision includes inaccurate assertions about District programs, but does not allow MPWMD the opportunity to set the record straight in a public hearing. The Proposed Decision is also flawed because it interferes with the authority of a governmental agency to lawfully enact fees for needed services.

I am concerned that the Proposed Decision would interrupt the long-standing MPWMD fisheries, riparian, lagoon, hydrology, water conservation and water supply programs that have protected our primary source of water supply. If the MPWMD program ends, Cal-Am is required to take it over. However, the Proposed Decision makes no provision for Cal-Am to start a new program on its own. This is no time to interrupt the Mitigation Program activities while the community strives to comply with the many state and federal directives that affect our water supply. One could effectively argue that if the Mitigation Program was interrupted, the SWRCB would be at legal risk of allowing "unauthorized" take of federally threatened species. This could lead the National Marine Fisheries Service and United States Fish and Wildlife Service to enter into an enforcement action, which could result in substantial fines and immediate reduction in allowed diversions from the Carmel River Basin, well ahead of the proposed 2015 date currently anticipated for reduction to levels consistent with SWRCB Order 95-10. In short, the Proposed Decision is shortsighted and lacks a thorough review of the existing setting, the relationship between Cal-Am and MPWMD, and the available evidence before the CPUC.

For the above reasons, I encourage you to approve Cal-Am's Application No. 10-01-012 and to modify the Proposed Decision to accept the Settlement Agreement among Cal-Am, MPWMD, and DRA. Alternatively, a public hearing should be set to allow MPWMD to answer questions and provide factual information about its programs. I believe the District Mitigation Program and ASR Project User Fees should continue as they are non-duplicative, reasonable and prudent.

Thank you for your consideration.

Sincerely,

David H. Dettman

Digitally signed by David H. Dettman
DN: cn=David H. Dettman
Date: 2011.01.10 13:43:21 -08'00'

David H. Dettman
DHDettman, Aquatic Biologist (and former MPWMD Senior Fisheries Biologist, 1989-2006)

HF&H CONSULTANTS, LLC
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Robert D. Hilton, CMC
John W. Farnkopf, PE
Laith B. Ezzet, CMC
Richard J. Simonson, CMC
Marva M. Sheehan, CPA

RECEIVED
JAN 10 2011
MPWMD

January 10, 2011

President Michael R. Peevey
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Via e-mail to CPUC Public Advisor
public.advisor@cpuc.ca.gov

SUBJECT: Support for Application No. 10-01-012 to Continue Collection of Monterey Peninsula Water Management District User Fee for Carmel River Mitigation Program and Aquifer Storage and Recovery Project

Dear President Peevey:

In my capacity as a water industry professional who has followed the water supply issues facing Monterey Peninsula residents and businesses, I am writing to support Application No. 10-01-012 because the Proposed Decision issued by Administrative Law Judge Maribeth Bushey exercises an option that is not within the Commission's jurisdiction.

The amount of the User Fee is subject to Article XIIID of the California Constitution (enacted by Proposition 218), which the District has complied with. While the Commission has no regulatory authority for challenging how the District sets its User Fee, the Commission does have authority over how California American Water Company (Cal-Am) sets its rates, including Cal-Am's costs associated with the Carmel River Mitigation Program and the Aquifer Storage and Recovery (ASR) Project. The District's User Fee is not one of Cal-Am's costs, however. The User Fee is simply a pass-through cost that Cal-Am derives using confidential metered water sales data. Because Cal Am will not share these data with the District, the District is unable to directly bill its rate payers based on each customer's water use.

The Commission should act in the best interests of rate payers. In this case, rate payers are best served by having Cal-Am derive the District's User Fee based on its confidential water use data rather than force the District to bill on some other non-flow based approach. In addition, including the User Fee on Cal-Am's bills reduces the costs to rate payers of mailing and administration.

Refusing to allow Cal-Am to continue charging the User Fee because the User Fee is partially linked to the amount of Cal-Am's revenue ignores the fact that the District

adjusts the User Fee to ensure that it is related to the District's costs, as it is required to in compliance with Article XIIID. Any duplication of accounting or other effort is no reason to discontinue charging the User Fee. Instead, the Commission should see to it that Cal-Am eliminates the duplication. That is as far as the Commission's regulatory authority extends.

In conclusion, I am deeply troubled by the Proposed Decision, which oversteps the Commission's authority at the peril of rate payers who need the District's expertise more than ever. The Commission should void the Proposed Decision and stay within the bounds of its regulatory purview.

Very truly yours,

HF&H CONSULTANTS, LLC

John W. Farnkopf, P.E.
Senior Vice President

Copies via email:
Allison Brown, Division of Ratepayer Advocates
David C. Laredo, DeLay & Laredo
Andy Bell, Monterey Peninsula Water Management District

Bob & Ruth Stephan

1021 San Carlos Road
Pebble Beach
CA 93953

Jan 13, 2011

Michael R. Peavey, President
California Public Utilities Commission
505 Van Ness Avenue
San Francisco CA 94102

Dear President Peavey,

We are outraged at the ripoff by the Monterey Peninsula Water Management District (MPWMD) of the taxes and fees we rate-payers pay to support it. We agree with Judge Maribeth Bushey's decision to reject the 8.325 percent user fee request and urge that the appeal of this decision be denied.

The MPWMD is an unnecessary drain on us taxpayers and water rate payers. Years ago (in 2002) the people voted overwhelmingly to disband the MPWMD but somehow it was rescued and the peoples' will was thwarted. It is now time to get rid of it for once and for all!

The MPWMD is a tremendous boondoggle for its employees who enjoy greatly overgenerous perks for doing little actual work. The money we pay passes through them, they and California American Water rake off their take from the top and pass the rest to contractors who do the actual work for them. There are other entities that could handle the work contracts and eliminate this substantial and unnecessary overhead. And the MPWMD has done nothing to improve the availability of water which is the reason it was formed in the first place.

The MPWMD pays generous salaries, provides overly generous holidays, substantial annual vacation times, and operates in luxurious office spaces. It is a leech on the backs of tax and rate payers. When looking over the budget and cost details of the MPWMD it appears that there is a conspiracy between MPWMD and CalAm to scam tax and rate payers out of as much money as they can get away with. We don't need that kind of treatment from any public agency.

It is past time to do away with the MPWMD and lift this unnecessary burden from the people. Denying the appeal will be a step in the right direction.

Sincerely,

Robert A. Stephan

Ruth C. Stephan

Robert A. Stephan

Ruth C. Stephan

cc: MPWMD, CalAm

Here's our answer to your ad on 1/2/2011.

Email: bob@bobstephan.com Voice/FAX: 831-646-1373 Web: bobstephan.com