



**EXHIBIT 18-D**

**FINDINGS of APPROVAL**

**CONSIDER APPLICATION TO AMEND CALIFORNIA  
AMERICAN WATER DISTRIBUTION SYSTEM – TRANSFER  
OF D.B.O. WATER RIGHTS IN SEASIDE BASIN**

**Donor Parcel: APN 011-011-051**

**Service area: Unspecified Parcels in Seaside Groundwater Basin**

**Application #WDS-20150922DBO, Permit #M15-07-L3**

**Adopted by MPWMD Board of Directors on November \_\_\_\_, 2015**

*Unless noted otherwise, all cited documents and materials are available for review at the  
MPWMD Office, 5 Harris Court, Building G, Monterey (Ryan Ranch).*

It is hereby found and determined as follows:

- FINDING:** **D.B.O. Development No. 30, a California Limited Liability Company (DBO)**, is the current owner of the subject property in Sand City, California, identified as Assessor’s Parcel Number (APN) 011-011-051, referred to herein as the “Donor Parcel.” A portion of the water rights associated with the Donor Parcel is proposed to be transferred to the proposed water purveyor and Co-Applicant, **California-American Water Company, a California corporation (CAW)**, for future service to unspecified recipient properties in the Seaside Groundwater Basin designated by DBO. This action is referred to herein as the “CAW/DBO Amendment.” DBO holds adjudicated rights, including rights to a Standard Production Allocation of water totaling at least 15.0 Acre-Feet per Year (AFY) from the Seaside Groundwater Basin, after accounting for triennial 10% reductions through year 2021 as ordered by the Monterey County Superior Court in the Seaside Basin Adjudication Decision (as amended). The Donor Parcel was previously owned by D.B.O. Development No. 27, which is named in that Decision.

**EVIDENCE:** Application #WDS-20150922DBO, site map and associated materials submitted September 22, 2015, including deed to Parcel 011-011-043 and 011-011-051 (Recorder ID#2010049740 dated 9/2/2010); “*Agreement Regarding Front-Loading Delivery of Water*” (referred to herein as the “Front-Loading Agreement”) dated September 24, 2015;

Seaside Groundwater Basin Adjudication Judgment dated March 27, 2006, as amended, Monterey Superior Court Case #M66343, *California American Water vs. City of Seaside et al.* (referred to herein as the “Adjudication Decision”).

2. FINDING: DBO’s water rights are based on the historical production from a Well that is located within the Edgewater Shopping Center complex on a Parcel currently identified as APN 011-011-043. The Well is currently a Monitor Well. The Well Parcel is owned by Dayton Hudson Corporation (Target), but the deed specifies that all water rights shall be retained by DBO. The Adjudication Decision allows parties to exercise their water rights anywhere in the Seaside Basin, and extractions are not limited to the location of historical use. Thus, DBO’s water rights are not confined to the Well Parcel, and may be produced from another Seaside Basin Well, owned by another entity, and delivered to recipient parcels within the Seaside Basin. Because DBO owns parcel APN 011-011-051, it was designated as the Donor Parcel for simplicity. The Donor Parcel is located within the CAW Service Area but does not receive CAW service.

EVIDENCE: Permit application materials specified in Finding #1; map of CAW Service Area; MPWMD Well records for APN 011-011-043.

3. FINDING: No new Wells or other water supply facilities regulated by MPWMD are associated with this application. The Monterey County Superior Court, Seaside Groundwater Basin Watermaster, and Sixth District Court of Appeal have confirmed that all or a portion of DBO’s 15.0 AFY Standard Production Allocation water rights may be delivered to recipient properties in the Seaside Basin from offsite CAW Well(s) located in the Seaside Basin.

EVIDENCE: Permit application specified in Finding #1, including Seaside Basin Adjudication Decision. Letter from Seaside Basin Watermaster to Fenton & Keller (attorney for DBO) dated October 19, 2015. Order After Hearing on SNG’s Motion to Enforce and Clarify the Amended Decision, Case #M66343, filed by the Monterey County Superior Court (Judge Roger Randall) on May 11, 2009 (referred to herein as “Court Order”); Sixth District Court of Appeal Decision, Case #H034335, dated April 1, 2010 (referred to herein as the “Appeal Decision”).

4. FINDING: The Applicants have applied for a Permit to amend the CAW Water Distribution System (WDS) to enable CAW to produce (“wheel”) up to 15.0 AFY of DBO’s Standard Production Allocation water rights from the Donor Parcel to serve future unspecified properties in the Seaside Basin via the Front-Loading Agreement. Pursuant to the formulas in the Adjudication Decision, the 15.0 AFY amount already accounts for

triennial 10% reductions through the year 2021.

EVIDENCE: Permit application materials specified in Finding #1, including the Front-Loading Agreement and Adjudication Decision. MPWMD Permit #M15-07-L3, Conditions of Approval #1 through #4.

5. FINDING: Based on District staff analysis of the application, the CAW production limit from the Coastal Subareas of the Seaside Basin is increased by 15.0 AFY to meet the water needs of the unspecified recipient properties that would benefit from the Donor Parcel specified in Finding #1. This is equivalent to metered sales (customer water consumption) of 13.95 AFY that would be approved via MPWMD Water Permits for use on the recipient properties, based on an assumed system loss factor (unaccounted for water) of seven percent (7%). This factor is considered as reasonable in light of the 7% goal set in the MPWMD Rules & Regulations, the CPUC goal of 9% maximum system losses set in July 2009, and other CPUC approvals to replace and repair water mains.

EVIDENCE: MPWMD Permit #M15-07-L3, Condition of Approval #3. CPUC Decision 09-07-021 dated July 9, 2009 (issuance date 7/10/2009); MPWMD Rules & Regulations.

6. FINDING: The application to amend the CAW WDS, along with supporting materials, is in accordance with District Rules 21 and 22.

EVIDENCE: Permit application materials specified in Finding #1; "Complete application" letter from MPWMD to Applicants dated October 23, 2015.

#### **Required Findings (MPWMD Rule 22-B)**

7. FINDING: The approval of the Permit would not cause unnecessary duplication of Potable water service with any existing system. The proposed CAW/DBO Amendment will be guided by the Adjudication Decision and the Front-Loading Agreement. [Rule 22-B-1]

EVIDENCE: Permit application materials specified in Finding #1, including Adjudication Decision and Front-Loading Agreement. MPWMD Permit #M15-07-L3, Conditions of Approval #1 through #4.

8. FINDING: The approval of the Permit would not result in water importation or exportation to or from the District, respectively. The referenced properties are located wholly within the MPWMD. [Rule 22-B-2]

EVIDENCE: District boundary location maps.

9. FINDING: Approval of the application would not result in significant adverse impacts to “Sensitive Environmental Receptors” (SER) as defined by MPWMD Rule 11, including the Seaside Groundwater Basin and the Carmel Valley Alluvial Aquifer (CVAA). The Monterey County Superior Court has determined the Seaside Basin “natural safe yield” and specified pumping rights of property owners as part of the Adjudication Decision, including at least 15.0 AFY for DBO. The Monterey County Superior Court has determined that serving Seaside Basin recipient properties with CAW Wells further inland (rather than extracting water closer to the coast) is an overall benefit to the ongoing integrity of the Seaside Basin and is part of the Physical Solution. On April 1, 2010, the Court of Appeal confirmed the findings of the Superior Court. The Front-Loading Agreement is consistent with the May 11, 2009 Court Order finding that with adequate “front-loading,” there is no resultant adverse impacts to the Carmel River or the CVAA. [Rule 22-B-3]
- EVIDENCE: Permit application materials specified in Finding #1, including Adjudication Decision and Front-Loading Agreement. May 11, 2009 Court Order and April 1, 2010 Appeal Decision specified in Finding #3. MPWMD Permit #M15-07-L3, Condition of Approval #30.
10. FINDING: As described in Finding #2, the application is based on specified water rights assigned to DBO as determined by the Superior Court as part of the Seaside Basin Adjudication Decision. [Rule 22-B-4]
- EVIDENCE: Adjudication Decision specified in Finding #1. May 11, 2009 Court Order and April 1, 2010 Appeal Decision specified in Finding #3.
11. FINDING: A long-term reliable source of water supply of 15.0 AFY production is available to CAW as this amount is less than the estimated 15.72 AFY production available to DBO under the Seaside Basin Adjudication. [Rule 22-B-5]
- EVIDENCE: Permit application cover letter, Seaside Basin Adjudication Decision and Front-Loading Agreement specified in Finding #1. May 11, 2009 Court Order and April 1, 2010 Appeal Decision specified in Finding #3. Letter from Seaside Basin Watermaster to Fenton & Keller (attorney for DBO) dated October 19, 2015.
12. FINDING: With the actions referenced in MPWMD Condition of Approval #1 through #4 and #30, the source of water supply is the CAW WDS, solely from Wells in the Coastal Subareas of the Seaside Basin, consistent with the May 2009 Court Order, April 1, 2010 Appeal Decision, and Front-Loading Agreement. The cumulative effects of issuance of this WDS Permit do not result in significant adverse

impacts to the Source of Supply or the species and habitats dependent on the Source of Supply due to actions by the Superior Court to reduce Seaside Basin pumping to the natural safe yield. [Rule 22-B-6]

EVIDENCE: MPWMD Permit #M15-07-L3, Conditions of Approval #1 through #4, and #30. Letter from Craig Anthony, CAW General Manager, dated January 29, 2009. Letter from James Kassel, State Water Resources Control Board (SWRCB) Assistant Deputy Director for Water Rights, dated February 5, 2009. Adjudication Decision and Front-Loading Agreement specified in Finding #1. May 11, 2009 Court Order and April 1, 2010 Appeal Decision specified in Finding #3.

13. FINDING: With the actions referenced in MPWMD Condition of Approval #1 through #4 and #30, the source of CAW supply for the recipient properties is derived from the Paso Robles and Santa Margarita Aquifers in the Coastal Subareas of the Seaside Basin, which is not within the jurisdiction of the SWRCB. The SWRCB has determined that the one-for-one replacement required in its Order WR 95-10 does not apply so long as CAW supply to the recipient properties is derived solely from the Seaside Basin. [Rule 22-B-7]

EVIDENCE: MPWMD hydrogeologic maps on file. January 20, 2009 e-mail confirmation of Kenneth Emanuel, SWRCB technical staff member, confirming written summary of October 10, 2008 meeting regarding SWRCB jurisdiction in Seaside Basin. Letter from Craig Anthony, CAW General Manager, dated January 29, 2009. Letter from James Kassel, SWRCB Assistant Deputy Director for Water Rights, dated February 5, 2009. Front-Loading Agreement specified in Finding #1. MPWMD Permit #M15-07-L3, Conditions of Approval #1 through #4, and #30.

14. FINDING: MPWMD Permit #M15-07-L3 does not entail a physical intertie to any other WDS as it enables solely a transfer of water rights from the Donor Parcel. The proposed project will enable increased production by CAW from several inland Wells in the Seaside Basin to serve recipient properties. The Well on APN 011-011-043 will remain a Monitor Well. [Rule 22-B-8]

EVIDENCE: Permit application materials specified in Finding #1, including Front-Loading Agreement. MPWMD Permit #M15-07-L3, Conditions of Approval #1 through #4, #13, and #31.

15. FINDING: A back-flow protection device to prevent contamination of the CAW system is not necessary as CAW is the water purveyor. CAW does not serve the Donor Parcel. [Rule 22-B-9]

EVIDENCE: Permit application materials specified in Finding #1. MPWMD Permit #M15-07-L3, Condition of Approval #14.

**Minimum Standards for Granting a Permit (MPWMD Rule 22-C)**

16. FINDING: The application adequately identifies the Responsible Parties as California- American Water Company and D.B.O. Development No. 30. [Rule 22-C-1]

EVIDENCE: Permit application materials specified in Finding #1.

17. FINDING: The application meets the definition of a “Multiple-Parcel Connection System” as water will be provided by CAW, a Public Utility with roughly 40,000 customers, for commercial, residential and/or landscape use on the future recipient properties. Compliance with California Title 22 water quality standards is the authority of the SWRCB Division of Drinking Water. [Rule 22-C-2]

EVIDENCE: Permit application specified in Finding #1. MPWMD Permit #M15-07-L3, Conditions of Approval #1, #2, #3, and #15. California Administrative Code, Title 22.

18. FINDING: The application identifies the location of the Source of Supply for the WDS as CAW Wells in the Coastal Subareas of the Seaside Groundwater Basin. [Rule 22-C-3]

EVIDENCE: Permit application specified in Finding #1. MPWMD Permit #M15-07-L3, Conditions of Approval #1 through #4, and #30.

19. FINDING: The approval of the application would not create an Overdraft or increase an existing Overdraft of a Groundwater basin, and a superior right has been demonstrated. The Superior Court has determined the “natural safe yield” and specified pumping rights of property owners in the Seaside Basin as part of the Adjudication Decision. The Adjudication Decision formulas result in at least 15.0 AFY Standard Production Allocation for DBO as described in Findings #1 and #2. [Rule 22-C-4]

EVIDENCE: Permit application, Adjudication Decision and Front-Loading Agreement specified in Finding #1. May 11, 2009 Court Order and April 1, 2010 Appeal Decision specified in Finding #3. Letter from Seaside Basin Watermaster to Fenton & Keller (attorney for DBO) dated October 19, 2015. MPWMD Permit #M15-07-L3, Conditions of Approval #1 though #4.

20. FINDING: The approval of the application would not adversely affect the ability of existing systems to provide water to Users due to conditions of approval that limit future water use to a reasonable and acceptable amount, consistent with the water rights determinations of the Superior Court as the result of the Seaside Basin Adjudication. [Rule 22-C-5]

EVIDENCE: Adjudication Decision specified in Finding #1. Letter from Seaside Basin Watermaster to Fenton & Keller (attorney for DBO) dated October 19, 2015. May 11, 2009 Court Order and April 1, 2010 Appeal Decision specified in Finding #3. MPWMD Permit #M15-07-L3, Conditions of Approval #1 through #4. California Water Code.

**Compliance with California Environmental Quality Act (CEQA)**

21. FINDING: In the review of this application, MPWMD has followed those guidelines adopted by the State of California and published in the California Administrative Code, Title 14, Section 15000, *et seq.* Specifically, the MPWMD has determined that a Statutory Exemption applies as defined in CEQA Guidelines Section 15268 (Ministerial Projects), based on previous environmental determinations by the Courts. The Monterey County Superior Court concluded that its Adjudication Decision included environmental determinations related to the Seaside Basin and adjudication of the rights therein. The MPWMD action is also consistent with the May 11, 2009 Court Order as confirmed by the Sixth District Court of Appeal, which limits CEQA review of water-related issues to areas other than the Seaside Basin.

EVIDENCE: Adjudication Decision and Front-Loading Agreement specified in Finding #1. May 11, 2009 Court Order and April 1, 2010 Appeal Decision specified in Finding #3.

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