

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

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**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

In the Matter of the Unauthorized Diversion and Use
of Water by the California American Water
Company; Cease and Desist Order WR 2009-0060

APPLICATION FOR ORDER
MODIFYING STATE WATER
BOARD ORDER WRO 2009-0060
(CEASE AND DESIST ORDER)

I. Introduction

Pursuant to Water Code section 1832, California American Water (CAW), Monterey

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

Peninsula Regional Water Authority (MPRWA) and Monterey Peninsula Water Management District (MPWMD) (collectively, Petitioners) hereby apply to the State Water Resources Control Board (SWRCB) for an order modifying certain of the ordering provisions of Order WRO 2009-0060 (referred to herein as “Order” or “CDO”).¹ In Orders WRO 2009-0060 as amended by WR 2010-0001, the SWRCB required CAW to comply with Condition 2 of SWRCB Order WR 95-10 by diligently implementing various actions in collaboration with the MPRWA, MPWMD and other community interests, including termination of unlawful diversions from the Carmel River in accordance with the schedule and conditions set forth in the CDO. Petitioners have diligently implemented measures to comply with the CDO, and CAW is currently meeting or has met all of the conditions of the CDO. Despite the best efforts of these parties as described below, factors beyond Petitioners’ control prevent CAW and Petitioners from implementing a replacement water supply to eliminate all unauthorized diversions from the Carmel River before December 31, 2016 as required in the CDO. Accordingly, Petitioners hereby request that the SWRCB issue a new order modifying and restating certain of the ordering provisions of the CDO as specifically proposed in Attachment 1 (Proposed Order).² In addition, Petitioners request cooperation and assistance from the SWRCB regarding certain applications, permits, loans and grant funds to implement projects that will reduce unauthorized diversion from, and increase the water in, the Carmel River, particularly during drier months of the year. With the SWRCB’s support for those projects and modification of Order WRO 2009-0060, Petitioners can commit to carry out the

¹ Petitioners understand that, as of its effective date, the requested Order would supersede the ordering provisions of State Water Board WRO 2009-0060. All other provisions of State Water Board WRO 2009-0060 and all other State Water Board orders concerning CAW’s diversions from the Carmel River would remain in effect until terminated by law or action of the State Water Board

² The Proposed Order is the result of nearly two years of analysis and negotiations by the Petitioners, stakeholders, resources agencies, and SWRCB staff. The Proposed Order includes significant commitments to measures to protect and enhance aquatic resources in the Carmel River through the extension period of the Proposed Order, and reflects an effort to maintain unequaled water conservation and use standards on the Monterey Peninsula without causing further damage to the economy of the Peninsula. The diversion reductions proposed in the Proposed Order will severely stretch the communities’ water conservation capabilities, and therefore this Application is made with the understanding and on the condition that the SWRCB adopt an order amending the CDO that is materially the same as the terms and conditions in the Proposed Order in Attachment 1. Petitioners reserve all rights and remedies to protect the water supply necessary to maintain health and safety of the Monterey Peninsula, and do not intend with this Application to waive any rights or remedies necessary to protect an adequate water supply for the public welfare of the Monterey Peninsula.

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

actions, plans and projects described in Sections III.A and III.C, which include:

- Continued development and implementation of efficiency and conservation measures;
- Continued development and implementation of projects to develop alternative and supplemental water supplies; and
- Continued development and implementation of fish and wildlife protection and enhancement measures.

[NOTE: Summary of Attachment 1 and rationale behind Effective Diversion Limit, extension period, etc. may be inserted prior to 11/12 MPRWA / 11/16 MPWMD Board meetings.]

While not signatories to this Application, many other stakeholders participated extensively in the development of this Application. The Petitioners thank each of these groups and request the Board recognize them for their efforts to collaborate with the Petitioners. Without them, this Application would not be as robust and well-reasoned as it is today. These groups include the Sierra Club, the Carmel River Steelhead Association, the Planning and Conservation League, the Pebble Beach Company, and the Carmel Valley Ranch, among others. Included in Attachment 3 are letters of support from non-applicant groups that participated in the development of this Application.

The Petitioners would also like to acknowledge the significant efforts and collaboration by Staff of the SWRCB in the development of this Application. In the face of the worst drought in California's history, SWRCB Staff professionally and cooperatively worked with the Petitioners over a two year period to provide feedback, to help drive consensus among stakeholders and to assist in the development of this Application and the Proposed Order. The Board should recognize the efforts and professionalism of its staff and their contributions to this Application.

II. The SWRCB has Authority to Modify the CDO

The SWRCB has broad discretion to modify a CDO and to revise a schedule of compliance contained in a CDO. *See* Order WR 2010-0002. Petitioners make this Application pursuant to Water Code section 1832, which states, in relevant part: “The board may, after notice and opportunity for hearing, upon its own motion or upon receipt of an application from an aggrieved person, modify, revoke, or stay in whole or in part any cease and desist order issued

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

pursuant to this chapter.” For the reasons set forth below, including the fishery protection and enhancement measures that will be implemented by Petitioners, Petitioners submit there is good cause for the SWRCB to modify the schedule and conditions in Order WRO 2009-0060.

III. It is Reasonable and in the Public Interest to Modify the CDO as Requested

A. CAW and Petitioners have Diligently and Aggressively Implemented Measures to Comply with the CDO.

1. Efficiency and Conservation Measures

Prior to and since the issuance of the CDO, Petitioners have dedicated tremendous resources to implement efficiency and conservation measures to control and reduce customer demand and system losses within CAW’s Monterey district, such that the community is currently outperforming the Carmel River diversion reduction targets set forth in the CDO. These include the following specific measures:

a. Moratorium on New Connections and Increased Uses at Existing Connections

CAW has implemented and diligently enforced a moratorium on new service connections within its Monterey district. CAW applied for, and the California Public Utilities Commission (CPUC) approved on March 24, 2011, a moratorium on new service connections and an increased use at existing connections caused by a change in use.³ See CPUC Decision D.11-03-048.

b. Revised Conservation and Rationing Plan

On July 14, 2015 CAW submitted an application to the CPUC to modify revised Rule No. 14.1.1 in CAW’s CPUC tariff, Water Conservation and Rationing Plan for the Monterey District. CAW filed this application, with support and cooperation from MPWMD, in recognition that Rule 14.1.1, which is based upon the MPWMD Regulation XV, Expanded Water Conservation and Standby Rationing Plan, is outdated since it was last reviewed by the

³ Prior CPUC decisions require CAW to seek CPUC authorization prior to denying service to any customer within its service area.

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

CPUC in a 2007 proceeding. A prehearing conference was held by the CPUC Administrative Law Judge on September 8, 2015 to discuss the parties' proposed schedule and scope of the proceeding. On November 4, 2015, the CPUC filed a scoping memo that sets the schedule for a decision on CAW's application by approximately October 2016.

c. Water Conservation Programs

CAW and MPWMD have implemented a variety of customer water conservation and efficiency programs, including programs targeting large commercial customers such as laundries, hotels, and car washes. CAW's efficiency standards have placed it in the lowest residential per-capita usage tier under the SWRCB's recently adopted emergency urban water conservation regulations. CAW and MPWMD have also implemented programs targeting reductions in outdoor irrigation, including replacement of irrigated turf with drought tolerant landscaping or artificial turf, incentives for installation of weather-based irrigation controllers, mandatory installation of rain sensors on irrigation systems, and mandatory water efficiency requirements for all non-residential customers and certain residential customers. *See* MPWMD Regulation XIV. In February 2010, CAW implemented, with CPUC approval, a new tiered conservation rate structure with increases directed at the top tier users to promote conservation practices and reduce overall water usage. Compared to the five year historical tier 4 and 5 usage, tier 4 and 5 usage was down approximately 71% in Water Year 2014-2015. *See* Table Nine in CAW's 4th Quarterly Report for the 2014-2015 Water Year to SWRCB pursuant to Order WRO 2009-0060.

d. Infrastructure and Operational Improvements to Reduce System Losses and Customer Leaks

CAW has implemented and continues to implement programs to detect and reduce non-revenue system losses, including: replacement of older water mains and service lines in areas shown to be more leak prone; water meter replacement; active leak detection; technological solutions to manage lost water; and operational fixes such as pressure reduction. In addition, CAW is currently conducting a pilot test with a group of Monterey customers using remote technology that enables participants to receive real time water consumption data for their

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

residential water account on their smart phone. The smart phone application can be used to set up an alert if consumption is indicative of a water leak or if use increases. This technology allows customers the ability to detect water leaks as they occur and to monitor their water use closely, further encouraging water conservation.

2. CAW is Diligently Pursuing Development of a Primary Alternative

Water Supply

As directed by Order 95-10 and the Order, Petitioners have diligently pursued the Monterey Peninsula Water Supply Project (MPWSP), which will produce the replacement water supply necessary to eliminate unauthorized diversions from the Carmel River.

a. Application for Approval of MPWSP and Permitting Activity

On April 23, 2012, CAW filed an application to the CPUC for approval of the MPWSP. The MPWSP includes the following components: 1) a desalination plant and associated source-water slant wells and conveyance system, which can produce up to 9,752 acre-feet-annually (afa) for system demand; 2) an Aquifer Storage and Recovery (ASR) project to store water lawfully diverted from the Carmel River in the Seaside Groundwater Basin for subsequent recovery, with an expected long term average yield of 1,300 acre-feet annually; and possibly 3) a Groundwater Replenishment (GWR) project that could treat recycled water and replenish up to 3,500 afa in the Seaside Basin. The GWR project is being developed by the MPWMD and Monterey Regional Water Pollution Control Agency (MRWPCA) and, if timely approved, could result in a down-sized desalination plant. The Certificate of Public Convenience and Necessity (CPCN), approving the MPWSP, is anticipated from the CPUC before the end of 2016.

Significant progress has been made on the MPWSP. CAW has undertaken – and continues to advance – as many aspects of the project as can be done without regulatory permits. In that regard, CAW acquired a 45-acre parcel of land near the City of Marina to serve as the desalination plant site. CAW has awarded a design-build contract to CDM Smith to construct the desalination plant once all necessary permits have been obtained. CAW is also in the process of conducting separate procurements to construct distribution system improvements and

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

construct the source water wells. These actions will expedite the construction of the MPWSP once all regulatory agencies have issued their respective permits.

On April 30, 2015, the CPUC released its Draft Environmental Impact Report (DEIR) for the MPWSP pursuant to the California Environmental Quality Act (CEQA). The release of the DEIR began a 60-day public comment period, which was subsequently extended through September 30, 2015. On September 8, 2015, the CPUC issued a statement that it will revise and recirculate the MPWSP DEIR as a joint DEIR/Draft Environmental Impact Statement (DEIS). The joint DEIR/DEIS will meet the requirements of the National Environmental Policy Act (NEPA), and will be coordinated with the Monterey Bay National Marine Sanctuary (MBNMS) as the federal lead agency. MBNMS's parent agency the National Oceanic and Atmospheric Administration (NOAA), published a *Notice of Intent to Prepare Environmental Impact Statement* on August 26, 2015 under NEPA for the MPWSP and held a related scoping meeting on September 10, 2015.

Substantial progress is also being made on the GWR component of the MPWSP. On April 23, 2015, MPWMD and MRWPCA released a DEIR for a 45-day public comment period that closed on June 5, 2015. On October 8, 2015 MRWPCA certified its final EIR for the GWR project.

b. Senate Bill 936 for Partial Public Financing

In September 2014, Governor Jerry Brown signed Senate Bill (SB) 936, authored by Senators Bill Monning and Anthony Cannella and Assemblymen Mark Stone and Luis Alejo. This legislation allows the MPWSP to utilize partial public financing if it is available at a lower rate than conventional, private project financing.

c. Test Slant Well Project

In addition, a new test slant well located on the CEMEX property in Marina, California was completed in March 2015. The test well was put into long term operation on April 22, 2015. Data from the test well and an associated network of monitoring wells is posted weekly on CAW's MPWSP website. Preliminary test well results have been promising and indicate that the

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

test well is operating as designed. CAW and the California Coastal Commission also successfully defended the Coastal Development Permits underlying the test well in two separate lawsuits challenging their validity.

**3. Petitioners Have Implemented Other Projects to Replace and Authorize
Carmel River Diversions**

Petitioners have developed, permitted and implemented supplemental water supply projects to reduce unauthorized Carmel River diversions. Petitioners have also facilitated or supported efforts by other entities to complete multiple projects and water right transactions that will permit beneficial uses within CAW's service area.

a. Table 13 Water Rights

CAW pursued and satisfied the requirements under SWRCB Decision 1632 to obtain additional appropriate water rights under SWRCB Permit 21330 to lawfully divert up to 1,488 afa from the Carmel River; subject to the same by-pass flow requirements as ASR water. In Water Year 2014-2015, CAW was able to divert 42.2 AF under the Permit, and reduce unauthorized diversions by an equal amount.⁴

b. Pebble Beach Wastewater Reclamation Project

CAW has been a participant with the Pebble Beach Company (PBC), the Carmel Area Wastewater District (CAWD), the Pebble Beach Community Services District (PBCSD), and MPWMD in accomplishing perhaps the most renowned golf course recycled water irrigation project in the country. The CAWD-PBCSD Wastewater Reclamation Project (as it is known) treats wastewater at the CAWD plant to a tertiary level, with advanced level micro-filtration which is then distributed by PBCSD and MPWMD as recycled water to irrigate all of the Del Monte Forest golf courses. This project is presently supplying an average of 1,000 afa of recycled water to the golf courses, conserving that amount of diversions from the Carmel River. In addition to MPWMD's conservation programs, this project is one of the largest water saving

⁴ Decision 1632 Condition 10 provides an opportunity for the persons named in Table 13 of Decision 1632 to obtain a water right permit with a priority superior to the MPWMD's Permit 20808. Decision 1632 delegates authority to the Chief of the Division of Water Rights to modify the quantities identified in Table 13.

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

projects operating on the Monterey Peninsula. In return for its financial commitment (of which PBC has funded over \$22 million in operating shortfalls and debt service) which made the project possible, PBC (with other Del Monte Forest landowners) received the Pebble Beach Water Entitlement, which was fully recognized in SWRCB Order WRO 2009-0060, as modified by Order WR 2010-0001.

c. Additional Aquifer Storage and Recovery Capacity

As required by the Order, CAW and the MPWMD expanded the Carmel River ASR Project to fulfill the Small Project requirement in Ordering Paragraph 3.a.(3). CAW and MPWMD jointly hold a water right permit that allows for up to 1,920 AFA to be diverted from the Carmel River during periods of excess flow and then injected into the Seaside Basin as part of the ASR program. CAW and MPWMD have completed two new wells (ASR Wells #3 and #4) at the Seaside Middle School since the CDO was issued. The addition of ASR Well #3 gives CAW and MPWMD the ability to store and recover an expected long term average of more than 500 afa, and was completed to satisfy Condition 5 of the CDO. The addition of ASR Well #4 provides the opportunity for CAW and MPWMD to fully realize the amounts available for diversion under the associated license when river flows exceed the corresponding flow triggers.

d. Carmel River Floodplain Restoration and Environmental Enhancement Project and Interim Water Use Agreement

CAW supported and facilitated a water right change petition submitted by the Clint Eastwood and Margaret Eastwood Trust (Eastwood Trust) and approved by the SWRCB on July 3, 2015 in Division Decision 2015-0001. This project includes a significant donation of land by the Eastwood Trust to the Big Sur Land Trust as an important component of the Carmel River Floodplain Restoration and Environmental Enhancement Project. The Carmel River Floodplain Restoration and Environmental Enhancement Project will, among other potential things, restore the historic floodplain and wetlands and improve flood protection in the lower Carmel River and increase riparian habitat.

The Eastwood Trust agreed to permanently dedicate 46 afa of its existing water right to

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

instream flows, and to grant temporary use of up to 85 afa to assist CAW to reduce its unauthorized diversions from the Carmel River. CAW and the Eastwood Trust expended significant time and effort to complete this transaction and expect to begin replacing CAW diversions with water available through the associated water right (License 13868A) in the immediate near term. Based upon an agreement with the Eastwood Trust, the SWRCB has ordered that all municipal water pumped under License 13868A during 2015 will be used to offset CAW's Carmel River Diversions, and that at least 50 af and 25 af will be used to assist CAW to reduce its unauthorized diversions from the Carmel River in 2016 and 2017, respectively. Until the MPWSP is brought online and unauthorized diversions from the Carmel River eliminated, the agreement with the Eastwood Trust authorizes CAW to use all water under License 13868A that is not used by Eastwood pursuant to the License amendment.

e. Carmel River Instream Flow Enhancement Program

CAW has proposed to the SWRCB the Carmel River Instream Flow Enhancement Program, whereby CAW will compensate Carmel River water rights holders to implement conservation measures to reduce water diversions from the river in order to increase instream flows for the benefit of fish and wildlife in the Carmel River. On September 8, 2015, CAW submitted a Notice of Intent to Implement the Carmel River Flow Enhancement Program to the SWRCB describing the proposed program which would temporarily modify the water users' water rights to allow for the instream use of water in the Carmel River.

f. City of Pacific Grove Recycled Water Project

The City of Pacific Grove certified an EIR for its Local Water Project to reduce irrigation on the City's municipal golf course and El Carmelo Cemetery. MPWMD provided a feasibility funding grant to assist planning this effort. SWRCB-authorized Clean Water State Revolving Fund (SRF) financing for this effort is presently pending final approval by the SWRCB. Provided the SWRCB approves the SRF financing, the City expects to begin construction during or before January 2016. CAW also has actively supported this project throughout the proposal and

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

approval process.

4. CAW and Petitioners have Implemented and Propose Additional Measures to Enhance and Improve Conditions for Fish and Wildlife Resources

CAW and Petitioners have permitted and implemented significant measures to enhance and improve conditions for fish and wildlife resources in the Carmel River watershed, and to minimize and avoid potential impacts to fish and wildlife during the extension period for the CDO sought through this Application.

a. Funding for Carmel River Mitigation Projects

Pursuant to a 2009 agreement (amended in 2014) between CAW, the National Oceanic and Atmospheric Administration (NOAA), and the California Department of Fish and Wildlife (CDFW), CAW made a one-time payment of \$3.5 million in 2009, annual payments of \$1.1 million per year for 2010 through 2015, and has committed to make annual payments of \$1.1 million per year through 2016 to the State Coastal Conservancy (SCC) for environmental protection and enhancement projects in the Carmel River watershed.

CAW's s payments, which total \$10.1 million to date, are being used to fund the following significant projects, which are designed to mitigate the impacts of CAW's unauthorized diversions and are identified by the SCC through ongoing consultations with the NMFS, CDFW, and Carmel River stakeholders primarily through the Carmel River Task Force:

- Removal of Old Carmel River Dam to facilitate fish passage;
- Removal of Sleepy Hollow Ford to facilitate fish passage;
- Restoration of Carmel River upstream of San Clemente Dam;
- Sleepy Hollow Fish Rearing Facility Intake Improvements;
- Carmel River Lagoon Large Wood Augmentation;
- Carmel Lagoon Water Augmentation;
- Carmel Lagoon Ecological Barrier;
- Additional Fish Passage Barrier Removal;

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

- Off-stream Storage of Excess Flows in Exchange for Forbearance of Summer Pumping; Provided that NOAA and CAW mutually agree to terms for extending the 2009 agreement described above, CAW will make additional annual payments of \$1.1 million (pro-rated for any partial years) until unpermitted diversions of water from the Carmel River are replaced by legal sources of water for use on projects during the requested extension period for the CDO. Use of these funds and administrative efforts will focus, with support of CAW and other Parties, on projects that can be implemented during the extension period to mitigate potential effects of the extension. MPWMD will use its best efforts and cooperate with NOAA, CDFW, SCC and the Carmel River Steelhead Association, to identify, develop, and implement mitigation efforts that benefit the Carmel River.

b. Carmel River Reroute and San Clemente Dam Removal Project

CAW also has permitted, financed and completed significant construction activities to reroute the Carmel River and remove the San Clemente Dam. The *Carmel River Reroute and San Clemente Dam Removal Project* is the largest dam removal project in California history, and was jointly developed and/or funded by the CAW, SCC, NOAA's National Marine Fisheries Service, the Planning and Conservation League Foundation, and the Nature Conservancy. This monumental and innovative project will:

- Remove the 106 foot high San Clemente Dam and implement a watershed restoration process that will bring the Carmel River back to life;
- Provide unimpaired access to over 25 miles of essential spawning and rearing habitat, thereby aiding in the recovery of threatened South-Central California Coast steelhead;
- Restore the river's natural sediment flow, helping replenish sand on Carmel Beach and improve habitat downstream of the dam for steelhead;
- Re-establish a healthy connection between the lower Carmel River and the watershed above San Clemente Dam;
- Improve habitat for threatened California red-legged frogs;
- Reduce beach erosion that contributes to destabilization of structures;

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

- Provide a long-term solution to the public safety risk posed by the potential collapse of the dam, which potentially threatens 1,500 homes and other public buildings in the event of a large flood or earthquake;

The various construction activities that have been completed or are nearly completed to date include: complete excavation of the re-route cut, nearly complete installation of the diversion dike and the stabilized sediment slope, the complete demolition of San Clemente Dam itself and the near completion of the new river channel that allows for fish passage. An additional component of the project is the ultimate transfer of CAW property around San Clemente Dam to the U.S. Department of Interior Bureau of Land Management, which will create additional open space and habitat in the watershed.

c. Los Padres Dam Downstream Fish Passage Facilities

CAW and various stakeholders agreed to construct downstream fish passage facilities at Los Padres Dam, located at approximately River Mile 24.8 on the Carmel River. CAW owns and operates Los Padres Dam and has made various improvements to accommodate upstream fish passage over the Dam. Currently, when lake elevations fall below the dam's spillway crest, no downstream fish passage corridor exists. To improve downstream fish passage opportunities, the following facilities will be constructed: behavioral guidance system, floating weir surface collector, fish bypass conduit, bypass access portals, and bypass outfall. Construction of these facilities began in the second quarter of 2015.

d. Los Padres Dam Long Term Planning Study

In its April 10, 2015 *Decision Adopting the 2015, 2016, 2017 Revenue Requirement for California-American Water Company*, the CPUC authorized CAW to fund a study to determine the ultimate disposition of the Los Padres Dam and its effects on the Carmel River. CAW will fund MPWMD to continue independently studying the fate of the Los Padres Dam, including contribution from CAW of up to \$1.0 million minus CAW staff time of \$24K per year to assist MPWMD. Studies will include evaluating upstream steelhead passage at Los Padres Dam,

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

whether the public trust resources of the Carmel River will be adversely affected or enhanced by removal or alteration of Los Padres Dam, what options exist to maintain physical existing surface storage in Los Padres Reservoir, and analysis of the potential geomorphic effects of a resumption or increase of the natural flow of sediment. In addition, CAW expects to work with MPWMD to develop the scope of work and award the feasibility study to a qualified environmental consultant by the close of the third quarter of 2015 and anticipates completing the study during 2018. CAW also will continue to fund mitigation measures pursuant to MPWMD's current mitigation program through December 31, 2020.

e. Commitment to Fund and Implement Additional Mitigation Projects

Upon SWRCB approval of this Application on terms substantially similar to those requested herein, and subject to final approval from CDFW, NOAA, and other agencies with permitting jurisdiction, CAW will implement up to \$2.5 million in other projects on the Carmel River to improve fish passage and habitat. These include, in order of priority and estimated costs: additional spawning gravel injections below San Clemente Dam using excess gravel from the San Clemente Dam removal project or from Los Padres reservoir should there be an insufficient quantity or type at San Clemente Dam (\$0.2 million); improvements to the existing upstream fish passage ladder and trap at Los Padres Dam (\$0.2 million); installation of a fish screen at the lower outlet pipe on Los Padres Dam (\$0.8 million); a pit tagging program (\$0.8 million); and a through-reservoir survival study for Los Padres Reservoir (\$0.5 million). Should the higher priority projects exceed the estimated amounts, funding will be pulled from the lower priority projects until the entire \$2.5 million is utilized. Additionally, the estimated cost from the above projects may be used to supplement other related projects occurring on the Carmel River (i.e., pit tagging work being contemplated by MPWMD).

B. Factors Beyond CAW's and Petitioners' Control Prevent Petitioners from Achieving all CDO Conditions and Deadlines

The requested modifications are necessary because factors beyond CAW's and Petitioners' control – namely the failure of the Regional Desalination Project and delays in the

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

CPUC approval schedule for the MPWSP – make it infeasible to complete the MPWSP and eliminate unauthorized Carmel River diversions within the current CDO schedule (i.e., by December 31, 2016). Petitioners anticipate a final CPUC decision approving the MPWSP and authorizing construction before the end of 2016. Once authorized, CAW expects to begin construction of the MPWSP by mid-2017, and to begin producing potable water to replace Carmel River diversions before the end of the requested extension period. Major infrastructure projects of this size and scope are often subject to delays and litigation, but this anticipated schedule reflects Petitioners’ best judgment if delays are kept to a minimum.

Taking into account the commitments, efforts and accomplishments described above, Petitioners request that the SWRCB modify the CDO as shown in Attachment 1. Petitioners’ make this request upon the express understanding and condition that the hearing record developed and adduced before the SWRCB for Orders WRO 2009-0060 and WRO 2010-0001 are incorporated within the proceedings on this Application, for all purposes. Further, this Application is made upon the express understanding and condition that the Petitioners each shall preserve, and not waive, their collective or individual rights to petition for relief from any provision of the order amending and restating the CDO, for any reason, upon a claim that the order amending and restating the CDO causes a threat to public health or safety or otherwise jeopardizes the water supply for the Monterey Peninsula. Should the SWRCB consider adoption of an order amending and restating the CDO on terms or conditions different from the Proposed Order submitted as Attachment 1 to this Application, Petitioners request that the SWRCB not take action thereon until the Petitioners have been provided notice of the draft order not less than 30 days prior to any meeting to adopt the order, and provided an opportunity to augment the record of proceedings with respect to the Application.

IV. Petitioners Request Assistance from the SWRCB.

Taking into account the commitments, efforts and accomplishments described herein, Petitioners request that the SWRCB commit to use reasonable efforts to assist the Petitioners’ efforts to eliminate unauthorized Carmel River diversions as follows:

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

1. Support issuance of a CPCN from the CPUC and support CAW's request(s) to the California Coastal Commission and other agencies with permitting jurisdiction for expedited permit issuance for the "Monterey Pipeline and other ASR related improvements," which will facilitate increased ASR diversion during high flows and other improved operations that will increase the amount of water in the Carmel River during dry months;
2. Cooperate with the MPWMD and the MRWPCA to place the GWR component of the MPWSP on the State Revolving Fund financing priority list;
3. Cooperate with the Parties' in efforts to secure from the SWRCB's Division of Financial Assistance a one percent (1.000%), thirty-year loan from the program announced March 19, 2014 for water recycling projects for the MPWMD/MRWPCA GWR project, provided an application is submitted by December 2, 2015;
4. Cooperate with the Parties to secure prioritization of the MPWMD/MRWPCA GWR grant request pursuant to Chapter 9 of AB 1471 (2014 Proposition 1); and
5. Support, including expedited review of, water rights Application 32263 of Monterey County Water Resources Agency, and any amendments thereto, to facilitate the MPWMD/MRWPCA GWR project.

V. Conclusion

For the reasons stated herein, Petitioners respectfully request modification of Order WRO 2009-0060 as set forth in Attachment 1.

Respectfully Submitted,

Dated:

CALIFORNIA AMERICAN WATER

MONTEREY PENINSULA REGIONAL WATER

EXHIBIT 19-A

**DRAFT 11/09/15
VERSION NO. 2**

AUTHORITY

MONTEREY PENINSULA WATER
MANAGEMENT DISTRICT

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