

8,671. In Water Year 2016-2017, the diversion limit would automatically be decreased again to 8,310 afa, which is derived by using a five year average of CAW's actual Carmel River production for the period ending with Water Year 2014-15. If Petitioners meet annual milestones that are directly tied to demonstrable progress on completing a new water supply during the extension period, then this diversion limit (8,310 afa) would be maintained for the entire extension period. If Petitioners fail to meet a milestone and the SWRCB does not grant an exception, then the diversion limit for the subsequent Water Year would be reduced by 1,000 afa. The Proposed Order includes provisions describing the possibility of carrying over limited volumes of water from one Water Year to another where CAW produces less than the diversion limit in place for a given Water Year. It also includes modifications to how water that is diverted to Aquifer Storage and Recovery (ASR) program is treated with respect to the diversion limit, which modifications are aimed at promoting maximum utilization of ASR to offset CAW's unlawful diversions if flow conditions permit. The Proposed Order also establishes a reporting structure through which Petitioners and other stakeholders would provide annual updates to the SWRCB on progress towards developing a new water supply and the status of the Carmel River fishery and habitat.

Petitioners also 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 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.

~~{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.}~~

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, summary, the Proposed Order would extend the deadline for CAW to terminate all unlawful diversions from the Carmel River until December 31, 2020 to allow additional time to complete development of a replacement water supply. The Proposed Order would require CAW to make an immediate reduction of 1,000 afa from the existing diversion limit that is in place under Order WRO 2009-0060 for Water Year 2015-16, resulting in a diversion limit for that year of

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.