



Supplement to 4/16/18 MPWMD Board Packet

Attached are copies of letters received between March 9, 2018 and April 7, 2018. These letters are listed in the April 16, 2018 Board packet under Letters Received.

Author	Addressee	Date	Topic
Richards J. Heuer III	MPWMD Board of Directors	4/6/2018	Ordinance No. 152 Charge and MPWMD User Fee
Stuart Berman & William Brodsley	David J. Stoldt	3/28/2018	Donation from Barnet Segal Charitable Trust
Frank Sollecito	MPWMD	3/27/18	471 Wave Street, Monterey CA
John V. Narigi	MPWMD Board	3/19/18	Item 13 on March 19, 2018, Adoption of Resolution 2018-05
Eric J. Sabolsice	MPWMD Board	3/19/18	March 19, 2018 Board Meeting Agenda Item 13, Consider Adoption of Resolution 2018-05 Regarding SWRCB Order WR 2009-0060
Michael Lauffer	David J Stoldt	3/19/18	MPWMD Item Concerning the Cal-Am CDO Condition 2
Hans Uslar	MPWMD	3/16/18	Agenda Item #13 Consider Adoption of Resolution 2018-05 Regarding SWRCB Order WR 2009-0060
Clyde Roberson	MPWMD	3/16/18	Agenda Item #13 Consider Adoption of Resolution 2018-05 Regarding SWRCB Order WR 2009-0060
Luke Coletti	MPWMD Board	3/15/18	MPWMD Board meeting Agenda March 19, 2018 (Item 13 – Consider Adoption of Resolution 2018-05 Regarding SWRCB Order WR 2009-0060

U:\staff\Boardpacket\2018\20180416\LettersRecd.docx



Monterey Peninsula Taxpayers Association
PO Box 15 – Monterey – CA - 93942

April 6, 2018
VIA EMAIL (arlene@mpwmd.net)

Board of Directors
Monterey Peninsula Water Management District
PO Box 85
Monterey, CA 93942-0085

RECEIVED

APR 06 2018

MPWMD

Dear Monterey Peninsula Water Management District Directors:

As the District begins to plan for the upcoming year, the Board should not rely on proceeds from the District's Ordinance 152 charge or User Fee when approving the District's budget for fiscal year 2018-2019. The User Fee includes the fee described in Rule 64, e.g., the 8.325% monthly fee charged to water customers of California American Water (CalAm) and collected by CalAm for the District, but not at all related to water service provided by CalAm. Both the Ordinance 152 charge and User Fee appear to be taxes that violate California laws and our Constitution for not having received requisite voter approval.

A decision on the legality of the Ordinance 152 charge should be issued soon by the Sixth District Court of Appeal, which heard final arguments on February 27, 2018, in the case of *Monterey Peninsula Taxpayers' Association et al. v. Monterey Peninsula Water Management District et al.* (Case No. H042484). During oral argument, the District stated that the Ordinance 152 charge did not meet the requirements of Proposition 26, which indicates that the District too believes the Ordinance 152 charge is a tax.

The User Fee appears to suffer the same infirmities as the Ordinance 152 charge. If the Board believes the User Fee is not a tax, please provide documentation supporting this position by April 30, 2018.

Sincerely,

Richards J. Heuer III
President
Monterey Peninsula Taxpayers' Association

cc: Ms. Brenda Lewis (lewis4water@gmail.com)
Mr. Andrew Clarke (andypwmd@gmail.com)
Ms. Molly Evans (water@mollyevans.org)
Ms. Jeanne Byrne (jcbarchfaia@att.net)
Mr. Robert Brower Sr. (rbrower136@gmail.com)
Mr. Ralph Rubio (rrubio@ci.seaside.ca.us)
Ms. Mary Adams (district5@co.monterey.ca.us)

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APR 03 2018

MPWMD

**BARNET SEGAL
CHARITABLE TRUST**

March 28, 2018

Mr. Dave Stoldt
General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
P.O. Box 85
Monterey, California 93942

Dear Mr. Stoldt:

You know that protecting the environment is critical to our survival. We at the Barnet Segal Charitable Trust agree with you and want to assist you in 2018. In recognition of your work we offer the Monterey Peninsula Water Management District financial support for your steelhead protection program with the enclosed check for \$1,000.

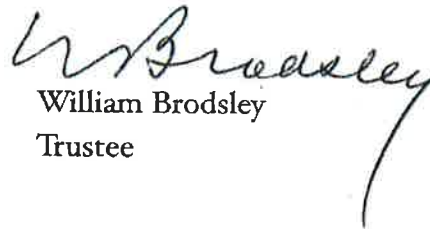
Grants from the Barnet Segal Charitable Trust may only be used to benefit the people, of Monterey County. If you have any questions about the appropriate use of these funds we urge you to contact us.

We wish you a prosperous and fulfilling year.

Sincerely,



Stuart Berman
Trustee



William Brodsley
Trustee

**BARNET SEGAL
CHARITABLE TRUST
P.O. BOX S-1
CARMEL, CA 93921**

RECEIVED

APR 02 2018

MPWMD

3/27/18

MPWMD

P.O. Box 85

Monterey, Ca. 93942-0085

Dear MPWMD Rep:

I am writing this letter in my capacity as a Director on the Board of the Cannery Row Antique Mall Owners Association located at 471 Wave Street Monterey. It has come to our attention that one of our owners has a project that they want to develop next to us at an address that has been quoted as 485 Wave, 453 Wave & 457 Wave. Regardless of the address we've been told that this member intends to use water credits from our business condominium at 471 Wave and our water meter. We as individual condominium owners find it hard to believe that we have any water credits to give. Furthermore, we can in no way approve the sharing of our meter, which the Association owns. Our business condominium is made up of numerous condo title owners, each of whom would appreciate a notification if and when someone tries to take control of our water meter.

Please keep this letter on file as a record of our associations response toward the aforementioned project, as it impacts our business condominiums.

Sincerely,

Frank Sollecito



Treasurer

Cannery Row Antique Mall Owners Association

831-915-5193

Coalition of Peninsula Businesses

A coalition of the Monterey County Hospitality Association, Monterey Commercial Property Owners' Association, Monterey Peninsula Chamber of Commerce, Carmel Chamber of Commerce, Pacific Grove Chamber of Commerce, Monterey County Association of Realtors, Community Hospital of the Monterey Peninsula, Pebble Beach Company, Associated General Contractors – Monterey District to resolve the Peninsula water challenge to comply with the CDO at a reasonable cost

March 19, 2018

Andrew Clark, Board Chair and
Members, Board of Directors
Dave Stoldt, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940

Transmitted by fax to 831-644-9558

RE: Item 13 on March 19, 2018, Adoption of Resolution 2018-05

Dear Mr. Clark and Mr. Stoldt:

The Coalition of Peninsula Businesses urges you to adopt Resolution 2018-05.

The Coalition has worked with Monterey Peninsula Water Management District (MPWMD) for almost two years to secure a reasonable interpretation of Cease and Desist Order Condition 2. The State Water Resource Control Board (SWRCB) ordered their staff to reach a reasonable interpretation with community leaders back in 2016. In spite of several meetings and phone conferences, which Coalition members participated in, SWRCB staff has still not acted.

It is time to confirm an interpretation of Condition 2 and eliminate confusion over its intent. MPWMD's interpretation has been successfully implemented historically with no increased pumping from the Carmel River. Recently the Monterey Bay Aquarium Education Center was allowed a favorable interpretation of Condition 2. Such a ruling was accepted by the SWRCB; others should not be penalized.

Please vote to adopt Resolution 2018-05; the Peninsula community has honored for years the water policies of MPWMD without creating excessive use, the language set forth in Resolution 2018-05 will allow MPWMD to reinstate their previous management practices without negative impact to the Carmel River.

Sincerely,



John V. Narigi, Chair
Coalition of Peninsula Businesses



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MAR 19 2018

MPWMD

Eric J. Sabolsice
Director, Operations
Coastal Division
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950
eric.sabolsice@amwater.com

P 831.646.3291
C 831.236.1011
F 831.375.4367

March 19, 2018

Via Hand Delivery and Email

Board of Directors Monterey Peninsula Water Management District 5 Harris Court, Bldg. G PO Box 85 Monterey, CA 93940	Mr. David Stoldt, General Manager Monterey Peninsula Water Management District 5 Harris Court, Bldg. G PO Box 85 Monterey, CA 93940
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Re: March 19, 2018 Board Meeting Agenda Item 13, Consider Adoption of Resolution 2018 - 05 Regarding State Water Resources Control Board Order WR 2009-0060

Dear Directors Lewis, Clarke, Evans, Byrne, Brower, Rubio and Adams, and Mr. Stoldt:

California-American Water Company ("Cal Am") submits this letter in response to the Monterey Peninsula Water Management District's ("MPWMD" or the "District") proposal to adopt Resolution 2018-05, listed as Agenda Item 13 on the District's March 19, 2018 Board Meeting Agenda. Proposed Resolution 2018-05 concerns the interpretation of Condition 2 of the State Water Resources Control Board's ("SWRCB") Cease and Desist Order 2009-0060 (the "CDO"), issued to Cal Am on October 20, 2009. CDO Condition 2 states that "Cal-Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use."

According to the Agenda Report, the purpose of Proposed Resolution 2018-05 is to "provide formal guidance to Cal-Am and the local jurisdictions on how to interpret Condition 2 consistent with District Rules and Regulations." Indeed, the Proposed Resolution expressly directs Cal Am to apply the District's proposed interpretation of CDO Condition 2, and states:

For purposes of Cal-Am or any Jurisdiction interpreting Condition 2, the phrase "any increased use of water at existing service addresses" shall mean increased capacity for use at an existing residential or non-residential site in excess of the pre-project capacity for use, adjusted for credit from water saved on a site, and/or a debit to a jurisdiction's allocation of water, and/or use of a water entitlement as permitted and authorized by the Monterey Peninsula Water Management District under its Rules and Regulations and determined either by using MPWMD fixture unit methodology to determine residential water use, or MPWMD water use factors for determining non-residential water use.

The Proposed Resolution appears contrary to an interpretation of CDO Condition 2 issued by SWRCB staff by letter dated April 9, 2012, and places Cal Am in a very difficult position with both the California Public Utilities Commission ("CPUC") and the SWRCB as Cal Am attempts to comply with the CDO. The Proposed Resolution also jeopardizes the conditions upon which the SWRCB authorized Cal Am to continue its diversions from the Carmel River pending completion of the Monterey Peninsula Water Supply Project. Cal Am risks substantial fines and potentially an injunction restricting Cal Am's diversions by more than 5,000 acre feet per year if it fails to

comply with the terms of the CDO; such a result would have a catastrophic effect on the Monterey Peninsula.

Following issuance of the CDO, on March 28, 2011 the CPUC issued Decision D-11-03-048 ordering Cal Am to recognize Condition 2 of the CDO through modified tariffs, and include in its tariffs a special condition incorporating the moratorium ordered by the SWRCB. (D.11-03-048, p. 49.) The CPUC's decision requires Cal Am to deny requests for new service connections and prohibit any increased use of water at existing service addresses resulting from a change in zoning or use. The CPUC's decision also ordered Cal Am to confer with the District, and then consult with the SWRCB to develop a workable protocol for determining the past use baseline as well as measuring increase in water use. Specifically, the decision ordered Cal Am to ask the SWRCB for written guidance "with respect to any unresolved issues of interpretation or implementation concerning Condition 2 of WR 2009-0060, including pertaining to requests by holders of water credits and entitlements from" the District. (D.11-030048, p. 51).

On November 29, 2011, in light of the CPUC's order, Cal Am sought clarification from the SWRCB concerning, among other things, determining a past use baseline. On April 9, 2012, the SWRCB's Deputy Director of Water Rights provided the SWRCB's response:

The State Water Board agrees to meet and discuss this matter. The potential for property owners to artificially increase water use to obtain a higher historical water use baseline is of concern. Until a determination to the contrary is made, the State Water Board will determine the baseline for past water use based on the lesser of the actual average metered annual water use for a water year from the last five years' of records, or the amount calculated from the fixture unit count.

Cal Am understands the District's frustration with the SWRCB's interpretation of Condition 2 of the 2009 CDO, and has been meeting with SWRCB staff along with the District to achieve an interpretation of Condition 2 that better aligns with the District's regulations. Cal Am does not believe that the issue has been finally resolved; nevertheless, the SWRCB has not yet issued any revisions to its position concerning baseline water use. We fully intend to continue to work with the District and the SWRCB within the requirements of the law to reach a resolution satisfactory to all parties. However, compliance with the Proposed Resolution could put Cal Am in the position of risking the water supply security that the community has achieved under the CDO and SWRCB Order 2016-0016 (extending to 2021 the deadline for reducing Carmel River diversions).

Cal Am urges the District's Board of Directors to table this Proposed Resolution at this time until it can obtain certainty from the SWRCB that Cal Am's compliance with the Resolution will not jeopardize the water supply of the Monterey Peninsula.

Sincerely,



Eric J. Sabolsice
Director, Operations – Coastal Division
California-American Water Company

Dave Stoldt

From: Lauffer, Michael@Waterboards <michael.lauffer@waterboards.ca.gov>
Sent: Monday, March 19, 2018 3:33 PM
To: Dave Stoldt; dave@laredolaw.net
Subject: MPWMD Item Concerning the Cal-AM CDO Condition 2

Dear Messrs. Stoldt and Laredo:

Over the weekend, the State Water Resources Control Board (State Water Board) received information from third parties that the Monterey Peninsula Water Management District (MPWMD) has before it this evening a resolution that would adopt an interpretation of State Water Board Order WR 2009-0060, Condition 2. The proffered interpretation is contrary to two interpretive letters on the matter issued by the State Water Board on April 9, 2012 and May 31, 2013. As you are aware, there have been stalled conversations regarding the potential to change the interpretation, but neither State Water Board staff nor the Board itself has indicated willingness to adopt either the credit/debit system or to substitute an interpretation of "capacity for use" as a baseline against which to measure increases, as opposed to the measurement of actual use. The formal interpretation letters of April 9, 2012 and May 31, 2013 specifically reject these interpretations.

I am gravely concerned that the MPWMD is going forward unilaterally with an agendized item interpreting an order issued by the State Water Board, contrary to prior interpretations by the Board, and without notifying the State Water Board or attempting to bring final closure to a common interpretation. Cementing the MPWMD's interpretation may stoke further confusion regarding whether water is available for new or increased uses on the peninsula, and lead to potential, needless, future conflict between the agencies. I encourage the MPWMD to withdraw the item from tonight's agenda so staff of the two agencies can attempt to resolve the issues.

-mami

 <p>Water Boards</p>	<p>MICHAEL A.M. LAUFFER, CHIEF COUNSEL STATE WATER RESOURCES CONTROL BOARD 1001 I STREET, 22ND FLOOR SACRAMENTO, CA 95814-2828</p> <p>PHONE: 916.341.5183 FACSIMILE: 916.341.5199 michael.lauffer@waterboards.ca.gov</p>
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For tips on what you can do to save water, visit <http://saveourwater.com/>



Mayor:
CLYDE ROBERSON

Councilmembers:
TIMOTHY BARRETT
DAN ALBERT
ALAN HAFEA
ED SMITH

City Manager:
MICHAEL MCCARTHY

March 16, 2018

Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940

RE: Agenda Item #13 Consider Adoption of Resolution 2018-05 Regarding State
Water Resources Control Board Order WR 2009-0060

Dear Board Members:

The Monterey Peninsula Water Management District (MPWMD) partners with local jurisdictions, including the City of Monterey, to create a consistent permitting framework for water supply. This permit system is essential to the City conducting its day to day business. For example, a restaurant may close and the building may be re-purposed into ground floor retail and an apartment on the second story. The existing rules and permit system clearly establish how these changes occur. The City fully supports this current framework and the rules and regulations that establish it. Most importantly, the District rules have resulted in almost 3,000 acre feet reduction in water use since the Cease and Desist Order was issued. We are proud of what we have accomplished!

One complicating factor is the possible interpretation of the Cease and Desist Order Condition 2. I support the Monterey Peninsula Water Management District's approach as outlined in the proposed resolution. The concept of relying on actual billed water use does not allow for the regular changes that occur to building uses overtime.

It is important that the region's water permitting rules and regulations continue to be followed in a consistent manner.

Sincerely,

Hans Uslar
Interim City Manager



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APR 02 2018

MPWMD

Mayor:
CLYDE ROBERSON

Councilmembers:
TIMOTHY BARRETT
DAN ALBERT
ALAN HAFFA
ED SMITH

City Manager:
MICHAEL MCCARTHY

March 16, 2018

Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, CA 93940

RE: Agenda Item #13 Consider Adoption of Resolution 2018-05 Regarding State
Water Resources Control Board Order WR 2009-0060

Dear Board Members:

The Monterey Peninsula Water Management District (MPWMD) partners with local jurisdictions, including the City of Monterey, to create a consistent permitting framework for water supply. This permit system is essential to the City conducting its day to day business. For example, a restaurant may close and the building may be re-purposed into ground floor retail and an apartment on the second story. The existing rules and permit system clearly establish how these changes occur. The City fully supports this current framework and the rules and regulations that establish it. Most importantly, the District rules have resulted in almost 3,000 acre feet reduction in water use since the Cease and Desist Order was issued. We are proud of what we have accomplished!

One complicating factor is the possible interpretation of the Cease and Desist Order Condition 2. I support the Monterey Peninsula Water Management District's approach as outlined in the proposed resolution. The concept of relying on actual billed water use does not allow for the regular changes that occur to building uses overtime.

It is important that the region's water permitting rules and regulations continue to be followed in a consistent manner.

Sincerely,

Clyde Roberson
Mayor

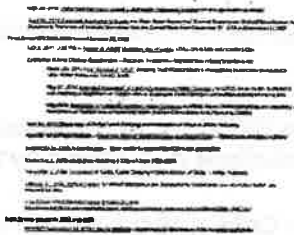
Re: MPWMD-Board-Meeting-Agenda-March-19-2018 (Item 13 - Consider Adoption of Resolution 2018-05 Regarding State Water Resources Control Board Order WR 2009-0060)

LC Luke Coletti
Thu 3/15, 2:06 PM

Reply all |

lewis4water@gmail.com; andympwmd@gmail.com; water@mollyevan+13 more

Label: 120 Day Delete (4 months) Expires: 7/13/2018 2:06 PM



Download Save to OneDrive - Monterey Peninsula Water Management District

MPWMD Board Members,

The attached screenshot clearly indicates that the two SWRCB guidance letters, regarding the interpretation of CDO Condition 2, are not available to the public (your constituents) via the District's website (see link below). Indeed, I have followed this issue for years and they have *never* been made available to the public.

<http://www.mpwmd.net/CDO/FinalCDOPage.htm>
<http://www.mpwmd.net/resources/document-library/>

Thank you for your consideration,

Luke Coletti
Pacific Grove

On 3/15/18 1:04 PM, Luke Coletti wrote:

**Final Order 2016-0016 Issued by the State Water Resources Control Board
on July 19, 2016 - Amending Order WR-2009-0060**

and

Final Cease and Desist Order WR 2009-0060 Issued on October 20, 2009

Updated 8/30/2016

Final Order WR 2016-0016 – CDO Extension/Modification – Issued July 19, 2016

July 19, 2016 Order WR 2016-0016 – Order Amending in Part Requirements of State Water Board Order WR 2009-0060

May 20, 2016 Letter from the Public Utilities Commission Expressing Support for the Application to Modify

April 28, 2016 Amended Application to Modify the State Water Resources' Control Board Order 2009-0060 to Extend the Deadline to Terminate all Unlawful Diversions from the Carmel River from December 31, 2016 to December 31, 2021.

Final Order WR 2009-0060 Issued October 20, 2009

Feb 2, 2011, 3:00 PM – Frequently Asked Questions and Answers about the Cease and Desist Order

California Public Utilities Commission – Decision 11-03-048 – Moratorium in Monterey Division

March 28, 2011 Final Decision of CPUC Directing Tariff Modifications to Recognize Moratorium Mandated by State Water Resources Control Board

May 27, 2010 Amended Application of California-American Water Company to CPUC for an Order Authorizing and Imposing a Moratorium on Certain New or Expanded Water Service Connections in its Monterey District

May 2010 Application of California-American Water Company to CPUC for an Order Authorizing and Imposing a Moratorium on Certain New or Expanded Water Service Connections in its Monterey District

April 23, 2010 Declaration of Darby Fuerst Delaying Implementation of Stage 5 Water Rationing

April 22, 2010 Press Release – Court Lifts Stay on SWRCB Cease and Desist Order – Restrictions Are Now in Effect

November 24, 2009 Press Release – Court Confirms Stay of SWRCB Order 2009-0060

November 2, 2009 Court Order Granting a Stay of Order 2009-0060

November 2, 2009 Declaration of Darby Fuerst Delaying Implementation of Stage 5 Water Rationing

October 27, 2009 Verified Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief; and Request for Stay

Final Order WR 2009-0060 dated October 20, 2009

http://www.swrcb.ca.gov/waterrights/board_decisions/adopted_orders/orders/2009/wro2009_0060.pdf

Final Orders Issued in 2008 and 2009

MPWMD September 30, 2009 Letter to SWRCB – Comments on September 2009 Revised Draft Order

Revised Draft Order issued September 2009 – http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/caw_cdo/docs/revdraftorder091609.pdf

MPWMD August 26, 2009 Letter to SWRCB – Comments on January 2009 Draft Order

Draft Order Issued January 2008 and all documents posted to the proceeding dating back to January 2008 – http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/caw_cdo

MPWMD Board Members,

I am asking you to carefully review the proposed resolution (links below) that asks you to willfully defy Condition 2 of Water Rights Order 2009-0060 (Cal-Am CDO). I have alerted the State Water Resources Control Board as well (attached correspondence, below).

<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13.htm>
<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13-Exh-A.pdf>

Public comments (including those from MPWMD) regarding Condition 2 can be found on the SWRCB website (see link below).

https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/

Here is a list of my own comment letters:

https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_011717.pdf
https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_032717.pdf
https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_041917.pdf
https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_08142017.pdf

Mr Stoldt is being particularly disingenuous in Finding #8 of the proposed resolution, where he claims:

"SWRCB board members, expressed concern that the SWRCB staff interpretive letter of April 9, 2012 was not in the public record and had not been subject to any public review or hearing process."

This is a complete fabrication. Instead, the Deputy Director of Water Rights, Barbara Evoy, stated that the District had long known about the State's interpretation of Condition 2. Perhaps Mr Stoldt can explain why the SWRCB's guidance letters and CPUC's decision (see links below) have *never* been presented to the public (your constituents) via the District's website! The fact is your General Manager has intentionally withheld information from the public in an attempt to manipulate the interpretation of Condition 2.

https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/swrcb040912resp.pdf
https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/swrcb040912resp.pdf

[can water company/docs/swrcb053113resp.PDF](http://docs.cpuc.ca.gov/PublishedDocs/SWRCB053113resp.PDF)

<http://docs.cpuc.ca.gov/PublishedDocs/WORD PDF/FINAL DECISION/134272.PDF>

At the July 19, 2016, SWRCB meeting Chair Marcus stated that she didn't want to see Condition 2 go away and that it was not an unusual enforcement tool. She also stated that Condition 2 was "meant to be inconvenient", especially in the context of an ongoing violation spanning over 20 years! Board Member Moore also acknowledged the importance of maintaining Condition 2, which focuses the community on working together. I urge all of you to view the video of the July 19, 2016, SWRCB meeting (board discussion, link below) and see if you come to the same conclusions as those found in Mr Stoldt's resolution, which you are being asked to adopt.

<https://www.youtube.com/watch?v=5siv6fyT4rU>

Please include a copy of this letter in the board packet and thank you for your consideration.

Luke Coletti
Pacific Grove

----- Forwarded Message -----

Subject:Re: Potential Non-Compliance with SWRCB Funding Condition 4b for the Pacific Grove Local Water Project (CWSRF Agreement Number D15-01021; Project Number C-06-8026-110).

Date:Thu, 15 Mar 2018 09:53:41 -0700

From:Luke Coletti <luc@groknet.net>

To:Dave Stoldt <dstoldt@mpwmd.net>

CC:Eileen.Sobeck@waterboards.ca.gov <Eileen.Sobeck@waterboards.ca.gov>

Michael.Lauffer@waterboards.ca.gov

<Michael.Lauffer@waterboards.ca.gov>

Jonathan.Bishop@Waterboards.ca.gov

<Jonathan.Bishop@Waterboards.ca.gov>

Erik.Ekdahl@waterboards.ca.gov, Brian.Coats@waterboards.ca.gov

<Brian.Coats@waterboards.ca.gov>, Marianna.Aue@waterboards.ca.gov

<Marianna.Aue@waterboards.ca.gov>

Harvey.Packard@waterboards.ca.gov

<Harvey.Packard@waterboards.ca.gov>, Carl, Dan@Coastal

<dan.carl@coastal.ca.gov>, Craig, Susan@Coastal

<susan.craig@coastal.ca.gov>, Kahn, Kevin@Coastal

<Kevin.Kahn@coastal.ca.gov>, O'Neill, Brian@Coastal

<Brian.O'Neill@coastal.ca.gov>, Eric.Sabolsice@amwater.com

<Eric.Sabolsice@amwater.com>, Richard.Svindland@amwater.com
<Richard.Svindland@amwater.com>, David Laredo <dave@laredolaw.net>

Mr Stoldt,

In my Nov 15, 2017, e-mail to you (below), I mentioned that "you intend follow your own interpretation" of Condition 2 of SWRCB WRO 2 009-0060.

Now, based your proposed District Resolution (links below) this is exactly what you intend to do.

<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13.htm>

<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13-Exh-A.pdf>

Having failed to convince the SWRCB that the District's interpretation of Condition 2 has merits (see link below), the District now appears ready to willfully oppose the SWRCB's interpretation of Condition 2.

https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/

How exactly does the District's proposed action "respect the language of both documents"?

Thank you for your consideration,

Luke Coletti
Pacific Grove, CA

On 11/15/17 1:10 PM, Luke Coletti wrote:

>
> Mr Stoldt,
>
> When you say the District "intends to respect the language of both documents" I hope that doesn't mean you intend to follow your own interpretation of these documents, which you have previously described to me and which appear to be in conflict with the Board's intent. As I

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> mentioned in my previous e-mail, the Board's intent and direction are
> clearly described in the video of their Nov 17, 2015 board meeting
> (link below), where funding for this project was approved.
>
> <https://www.youtube.com/watch?v=m5Eq4DJaiYs>
>
> Lastly, my previous comments were hardly inflammatory. Instead, they
> are fact-based comments from a concerned citizen regarding the public
> record.
>
> Thank you for your consideration,
>
> Luke Coletti
>
> Pacific Grove
>
>
> On 11/14/17 3:16 PM, Dave Stoldt wrote:
>> Mr. Coletti,
>>
>> Kindly refrain from future use of such inflammatory language. The
>> District is well aware of the findings and conditions of the City's
>> State Revolving Fund loan, as well as the actual language in the
>> original cease and desist order. We intend to respect the language
>> of both documents.
>>
>> Regards,
>>
>> _____
>>
>> David J. Stoldt
>> General Manager
>> Monterey Peninsula Water Management District
>> 5 Harris Court - Bldg G
>> Monterey, CA 93940
>>
>> 831.658.5651
>>
>>
>>
>> -----Original Message-----
>> From: Luke Coletti [<mailto:ljc@groknet.net>]
>> Sent: Tuesday, November 14, 2017 2:47 PM
>> To: Dave Stoldt <dstoldt@mpwmd.net>
>> Cc: Eileen.Sobeck@waterboards.ca.gov;
>> Michael.Lauffer@waterboards.ca.gov;

22

>> Jonathan.Bishop@waterboards.ca.gov; Les.Grober@waterboards.ca.gov;
>> Brian.Coats@waterboards.ca.gov; Marianna.Aue@waterboards.ca.gov;
>> Harvey.Packard@waterboards.ca.gov; Carl, Dan@Coastal
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>> Subject: Potential Non-Compliance with SWRCB Funding Condition 4b for
>> the Pacific Grove Local Water Project (CWSRF Agreement Number
>> D15-01021; Project Number C-06-8026-110).
>>
>>
>> Mr Stoldt,
>>
>> As part of funding the Pacific Grove Local Water Project (PGLWP) the
>> SWRCB attached condition 4b (see SWRCB Res 2015-0070, link below)
>> which, in part, states: "The City...shall use the ensuing demand
>> reductions to offset deliveries from Cal-Am until such time as the
>> City receives consent from the State Water Board's Executive Director".
>>
>> https://www.waterboards.ca.gov/board/decisions/adopted_orders/resolutions/2015/rs2015_0070.pdf
>>
>>
>> Based on the revised minutes for the District's Sept 19, 2017 Water
>> Supply Planning Committee Meeting (text and link below), both Pacific
>> Grove and the District are considering breaking faith with this
>> condition, which is also reflected in SWRCB WRO 2016-0016, see CDO
>> Condition 8d. The minutes mention the following:
>>
>> "The Pacific Grove Local Water Project should begin operation in
>> October 2017. The goal was to obtain final permits within 45 days of
>> operation, after which the City plans to petition the District for
>> use of the Pacific Grove Water Entitlement established by

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MPWMD

>> Ordinance No. 168."

>>

>> <http://www.mpwmd.net/asd/board/committees/watersupply/2017/20171114/01/Item-1-Exh-A.pdf>

>>

>>

>> MPWMD Ordinance 168, adopted in Jan, 2016, grants Pacific Grove a 66

>> AF entitlement based on the anticipated potable water being "freed

>> up" by this state funded project. The District also gifted itself a

>> 9AF allotment (see link below).

>>

>> <http://www.mpwmd.net/ordinances/final/ord168/Ordinance-168.pdf>

>>

>> You are certainly free to defy the SWRCB but it seems to me you risk

>> the possibility of making matters worse for this project.

For

>> example, the SWRCB could place restrictions on the plant's waste

>> discharge requirements permits (production and distribution) and

>> possibly even shut the plant down based on non-compliance.

Further,

>> the California Coastal Commission (CCC) could revoke the city's

>> Coastal Development Permit Waiver, which was based, in part, on the

>> city's explicit promise to dedicate all of the saved potable water

>> (125 AFA) towards the river (see CDP application, attached PDF). The

>> CCC would then likely require the city to apply for a full CDP, which

>> would highlight the project's explicit promise to provide a potable

>> water offset to assist California American Water in reducing system

>> pumping from the Carmel River, as required by SWRCB WRO 2009-0060 &

>> 2016-0016.

>>

>> State agencies typically cooperate with one another and in this case

>> could force Pacific Grove and the District into compliance. The

>> city's last performance before the CCC (failure to comply with a

>> coastal armoring permit) was anything but pleasant for all

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concerned.
>> Why is the District willfully encouraging Pacific Grove in
to further
>> non-compliance with state ordered conditions?
>>
>> If you review the video of the Nov 17, 2015 SWRCB meeting
(link
>> below), where funding for this project was approved, I believe you
>> will immediately understand the Board's decision and also
Pacific
>> Grove's willingness to accept the conditions placed on the
project.
>>
>> <https://www.youtube.com/watch?v=m5Eg4DJaiYs>
>>
>> Apparently, the city feels they're not obligated to honor
their
>> promises after having received all of the state money for
this
>> project. I am deeply disappointed with this deceptive and
cynical
>> strategy.
>>
>>
>> Thank you for your consideration,
>>
>> Luke Coletti
>> Pacific Grove