



Supplement to 1/25/2021 MPWMD Board Packet

Attached are copies of letters received between December 10, 2020 and January 19, 2021. These letters are listed in the January 25, 2021 Board packet under Letters Received.

Author	Addressee	Date	Topic
David L. Stivers	David Stoldt	01/11/2021	Missed Milestones- Cease and Desist Order WRCB Order WR-2016-0016
Robert Hedberg	MPWMD	12/7/2020	Request for Appeal of Monetary Penalty and Request for Correction of Usage Records



PEBBLE BEACH
RESORTS

January 11, 2021

Via U.S. Mail & Electronic Mail

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State Water Resources Control Board
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General Manager
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dstoldt@mpwmd.net

Dear Ms. Sobeck and Messrs. Svindland, Cook, and Stoldt:

Pebble Beach Company (PBC) has received and reviewed the June 5, 2020 report and October 21, 2020 letter from California American Water (Cal-Am) to the State Water Resources Control Board (SWRCB), and the November 17, 2020 response letter from SWRCB to Cal-Am, regarding the potential consequences for Cal-Am of missing Milestone 5 on September 30, 2020 - namely a potential reduction of 1,000 acre-feet of the Effective Diversion Limit of SWRCB WR-2016-0016 (2016 Order).

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PBC is one of the Applicants in the 2016 Order. PBC was not copied on the Cal-Am June 4, 2020 report nor on its October 21, 2020 letter to SWRCB. We were only copied on SWRCB's response to Cal-Am of November 17, 2020, wherein we learned of the likelihood of Cal-Am agreeing to the 1,000 acre-foot reduction in the Effective Diversion Limit.

Cal-Am stated in its October 21 letter that it is "preparing its Water Year 2020-2021 operations plan - with the expectation that the Effective Diversion Limit under the CDO is reduced from 8,310 acre-feet to 7,310 acre-feet." Cal-Am explained that its position is because "we understand that the State Water Board is not likely to find that delays were beyond the control of the 'Applicants.'" In other words, Cal-Am is acceding to the 1,000 acre-foot reduction in the Effective Diversion Limit based on speculation over what the SWRCB Board will or will not approve.

PBC respectfully disagrees with Cal-Am's position, and as an Applicant to the 2016 Order we feel an obligation to provide input on the issue at hand.

Paragraph 3.b.viii of the 2016 Order provides in part as follows:

If the report [i.e., the June 5 Cal-Am report] indicates that a Milestone is likely to be missed for reasons beyond Applicants' control, the State Water Board may make a determination during that meeting or at a subsequent meeting whether the cause for delay is beyond Applicants' control. If the State Water Board determines that the cause is beyond Applicants' control, it may suspend any corresponding reductions under Condition 3.b.vi until such time as the Applicants can reasonably control progress towards the Milestone.

The June 5, 2020 Cal-Am report presents what we believe to be incontrovertible evidence that missing Milestone 5 was beyond the Applicants' control. First, the delays imposed by the California Coastal Commission's processing of Cal-Am's appeal of the decision of Marina, and Cal-Am's own separate application for a coastal development permit, have made it impossible for Cal-Am to proceed with the activities necessary to meet Milestone 5. Notwithstanding warnings of dire consequences by Cal-Am, the Seaside Groundwater Basin Watermaster, and others, including SWRCB in its letter to the Coastal Commission dated May 8, 2020 indicating no further studies were needed, the Coastal Commission staff has insisted that they are requiring further studies and have continued to recommend denial of the project - which, of course, would leave the project dead in the water with no possibility whatsoever of meeting Milestone 5 or any subsequent Milestones.

Second, the Stay Order issued by the Monterey County Superior Court in the lawsuit brought by the City of Marina against Monterey County (County) represents a separate and independent reason for non-compliance that is clearly outside of Cal-Am's control. Simply put, the order precludes Cal-Am from proceeding with the work necessary to meet the requirements of Milestone 5. How can that not be viewed as outside of Cal-Am's control?

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In sum, the material delays caused both by the Coastal Commission staff and by order of the Monterey Superior Court were clearly and undeniably beyond Cal-Am's and the other Applicants' control. Based on the facts, no other conclusion is remotely tenable.


And what of the consequences for the community of enforcing a cut-back due to circumstances beyond Cal-Am's and the community's control? 1,000 acre-feet is a lot of water to be unfairly deprived of. Once the restrictions of COVID 19 are eased, there will be many businesses opening up again, and the economy of the Monterey Peninsula will undoubtedly experience an upsurge in water demand compared to what has occurred in the past year. The community will need this water, but what it certainly does not need are any additional restrictions that would hamper its ability to recover from the dire economic consequences of the pandemic.

In conclusion, we believe the evidence overwhelmingly supports a finding that missing Milestone 5 was beyond the control of Cal-Am and the other Applicants. PBC requests a factual hearing before the SWRCB Board on whether the cause for delay in meeting Milestone 5 is/was beyond the Applicants' control.

Thank you for consideration of our views as not only an "Applicant," but equally importantly, as one of the major employers and businesses on the Monterey Peninsula.

Respectfully submitted,

PEBBLE BEACH COMPANY

By: 

David L. Stivers, President

cc: Bill Perocchi, Chief Executive Officer, Pebble Beach Company
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December 7, 2020

RECEIVED

DEC 10 2020

MPWMD

MPWMD
ATTN: Board of Directors
PO Box 85
Monterey, CA 93942-0085

RE: Request for appeal of monetary penalty & Request for correction of usage records

To the MPWMD Board of Directors:

In accordance with the letter of 11/10/20 from MPWMD (received in our office 11/18/20 due to being improperly addressed) Hacienda Carmel Community Association wishes to formally request an appeal of the \$300 monetary penalty imposed as the result of a second report of excess water run-off on our grounds.

The request for appeal is for the following reasons:

- The first notice that a report had been received by MPWMD on June 16, 2020 was not conveyed in writing to Hacienda Carmel. I received the notice via a voice message from Water Conservation Representative Chris Timmer.
- Upon placing a follow-up call to Chris Timmer as to where exactly on our approximately fifty acres of property the excess run-off was reportedly occurring, he was unable to give me a specific location that I could in-turn convey to our grounds supervisor for attention. Our conversation evolved into more of a general discussion of water waste awareness, which we subsequently conveyed to our grounds crew of seven.
- Upon receiving the letter of 11/10/20 from MPWMD (on 11/18/20) notifying us of a second report of excess run-off, I again spoke by phone with Chris Timmer. I again asked for specific location information such as photographs showing where the excessive run-off was occurring in order to adequately address the problem area. Chris indicated he had photographs and would send them to me in a subsequent email. That email on 11/19/20 stated photographs were attached that were taken during the complaint investigation on 11/02/20, however, there were no such photos attached – only a “Google Earth” photo of the north-west quadrant of Hacienda Carmel with several circles made with a yellow highlighter pen. The circled areas include one large area that has been converted to drought resistant landscaping and is on a drip-irrigation system. Another portion of the circled areas is turf with a significant slope toward the street, making it somewhat inevitable that some water run-off will occur during a watering cycle. It seems that it would be very helpful if our business office had been contacted during the on-site visit to speak with a manager or grounds supervisor while the issue was occurring, so that the specific locations of the areas in question could be readily addressed.

Although Hacienda Carmel utilizes non-potable well water for our irrigation systems, we certainly strive to be conscientious about water waste and conservation whenever possible. Since beginning a community-wide awareness and conservation campaign in 2015 we have, as a community, reduced our measured potable water usage by more than 50%. In addition, we have converted more than five thousand square feet of turf to drought-resistant landscape including drip irrigation, with plans for more turf conversion in our current operating plan for the coming year.

Therefore, based upon the information provided above, and taking into consideration the methods used in communicating to us the reports of excessive run-off with very sparse information to assist us in making operational modifications to avert subsequent issues, we respectfully ask the Board to abate the \$300 monetary penalty with the agreement that going forward there will be clear and specific evidence of occurrences with either face-to-face contact at the time of investigation, or photographs showing the nature of the alleged water waste. Please note that it is certainly our intent to continue educating and monitoring our staff to help avoid any future occurrences of this nature.

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Aside from the notification of the monetary penalty, the same letter of 11/10/20 goes on to state: ***"...it has come to our attention that Hacienda Carmel's exterior water use is one of the highest in Carmel Valley."***

We respectfully take exception to that point: When I addressed this topic in my conversation with Chris Timmer on 11/19/20 I asked him to please send me data to verify this statement. Chris emailed me some info later that day which included a table of all user wells along the *Carmel Valley Alluvial Aquifer* for the year 2017, along with a separate page (enclosed) listing Hacienda Carmel's total usage for our two wells from 2011 to 2020. If one looks at this list, it clearly indicates there was some type of anomaly in 2017 when it shows HC's usage at approximately five times the normal usage listed for all other years. The answer to this anomaly is simple. In 2017 the meter on the east well was changed and when the meter was subsequently read and the number reported at the end of the year, it indicated usage of 148.24 acre feet due to the disparity in the numbers from the old meter and the new one. Rather than 148.24, it was actually just 4.62 acre feet. Therefore, **total actual usage for 2017 was 36.86 AF** and not the 180.48 listed in the District's data base. Our records indicate this corrected information was communicated to Thomas Lindley at MPWMD in 2017. Therefore, we would also respectfully request that MPWMD's records be corrected to reflect the actual total for the year 2017 for accuracy of historical usage.

Thank you,



Robert Hedberg, CMCA
General Manager
Hacienda Carmel Community Association

cc: David Stoldt – MPWMD General Manager
Stephanie Locke – MPWMD Water Demand Manager
HCCA Board of Directors

(enclosure)

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
Production History for Hacienda Carmel

Report Period	East Well	West Well	TOTAL
	AF RECORDED	AF RECORDED	
WY 2011	16.20	8.29	24.49
WY 2012	0.09	29.57	29.66
WY 2013	0.01	34.46	34.47
WY 2014	0.002	34.46	34.46
WY 2015	0.59	23.67	24.26
WY 2016	5.41	17.82	23.23
WY 2017	148.24	32.24	180.48
WY2018	13.46	16.97	30.43
WY2019	27.76	0.0003	27.76
WY2020	32.98	0.86	33.84

Notes:

WY = Water Year, runs October 1 through September 30
Based on observations by MPWMD staff.
West Well meter changed 2013

* SHOULD BE 36.86

A.6Z ACTUAL