



# Supplement to 2/25/2021 MPWMD Board Packet

Attached are copies of letters received between January 20, 2021 and February 16, 2021. These letters are listed in the February 25, 2021 Board packet under Letters Received.

Author	Addressee	Date	Topic
Hans Uslar	David Stoldt	January 15, 2021	City of Monterey Declining Request to Sign an Agreement to Indemnify and Defend MPWMD on an Allocation of Water from the District's reserves
David L. Stivers	David Stoldt	January 21, 2021	Missed Milestones- Ceased and Desist Order WRCB Order WR-2016-0016
Patrick J. Breen	David Stoldt	January 22, 2021	Invitation to Provide Input and Comments on an Updated Urban Water Management Plan (UWMP)
Amanda Ingham	George Riley	January 29, 2021	NOAA's National Marine Fisheries Service's (NMFS) Comments on the Construction of a Bypass Pipeline to Allow Simultaneous Pure Water Monterey Recovery and Aquifer Storage Recovery Injection
Rick Heuer	David Stoldt	February 9, 2021	Nomination for Replacement of Paul Bruno as MPTA Representative on Ordinance No. 152 Oversight Committee





January 15, 2021

David Stoldt  
General Manager  
Monterey Peninsula Water Management District  
P.O. Box 85  
Monterey, CA 93940

Dear Mr. Stoldt:

At its meeting of May 18, 2020, the Monterey Peninsula Water Management District (MPWMD) considered the Water Demand Committee's recommendation to deny the City's water allocation request. The additional water allocation would have allowed 31 additional 100% affordable units at 2000 Garden Road, and 35 additional 100% affordable units at 2600 Garden Road.

At that meeting a motion was made to deny MPWMD's staff recommendation and approve the allocation of water from the District's reserves as long as the City of Monterey agrees to indemnify and defend the MPWMD. This motion passed 5-2.

The MPWMD has requested that the City sign an agreement, which will hold the City and the affordable housing developer responsible for any potential legal costs as a result of the decision made by MPWMD.

I have to decline the request to indemnify and defend the MPWMD.

I understand that the State's Water Resources Control Board has been closely following the actions by our two elected boards. As a matter of fact, during the meeting on May 18, 2020 the Deputy Counsel of the SWRCB phoned in to let the board know that he was watching the meeting and subsequent actions of the board on this matter.

Therefore, it is more than likely that the legal staff of the SWRCB might initiate legal steps against our actions. The high cost to defend the MPWMD's decision cannot be carried by the taxpayers of the City of Monterey.

I regret that the very real threat of potential legal actions by the State Water Resources Control Board will prevent the construction of 66 affordable housing units. Furthermore, this experience amplifies the need for a reliable water source on the Monterey Peninsula.

Sincerely,

A handwritten signature in black ink, appearing to read "Hans Uslar". The signature is fluid and cursive, with a prominent loop at the end.

Hans Uslar  
City Manager  
City of Monterey

CC: Mayor and City Council



PEBBLE BEACH  
RESORTS

RECEIVED

JAN 21 2021

MPWMD

January 11, 2021

**Via U.S. Mail & Electronic Mail**

Eileen Sobeck, Executive Director  
State Water Resources Control Board  
1001 I Street  
P.O. Box 100  
Sacramento, CA 95812  
Eileen.Sobeck@waterboards.ca.gov

Richard Svindland, President  
California American Water  
655 W. Broadway, Suite 1410  
San Diego, CA 92101  
Rich.Svindland@amwater.com

Chris Cook, PE  
Director of Operations - Monterey  
California American Water  
511 Forest Lodge Road, Suite 100  
Pacific Grove, CA 93950  
Christopher.Cook@amwater.com

David Stoldt  
General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Building G  
P.O. Box 85  
Monterey, CA 93942-0085  
dstoldt@mpwmd.net

Dear Ms. Sobeck and Mssrs. 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  
Perocchb@pebblebeach.com

Ian Crooks, Vice-President, California American Water  
Ian.Crooks@amwater.com

Mayor Bill Peake, City of Pacific Grove  
bpeake@cityofpacificgrove.org

Mayor Clyde Roberson, City of Monterey  
roberson@monterey.org

Mayor Ian Oglesby, City of Seaside  
ioglesby@ci.seaside.ca.us

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Mayor Mary Ann Carbone, City of Sand City  
maryann@sandcityca.org

Mayor Alison Kerr, Del Rey Oaks  
akerr@delreyoaks.org

Mayor Dave Potter, City of Carmel-by-the-Sea  
dpotter@ci.carmel.ca.us

Bob McKenzie, Consultant to Coalition of Peninsula Businesses  
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Steve Park, President, Carmel River Steelhead Association  
stevepark@razzolink.com

E. Joaquin Esquivel  
Joaquin.esquivel@waterboards.ca.gov

Erik Ekdahl, SWRCB  
Erik.Ekdahl@waterboards.ca.gov

Steven Westhoff, SWRCB  
Steven.Westhoff@waterboards.ca.gov





## MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: [www.mcwd.org](http://www.mcwd.org)

TEL: (831) 384-6131 FAX: (831) 883-5995

### DIRECTORS

JAN SHRINER  
*President*

THOMAS P. MOORE  
*Vice President*

HERBERT CORTEZ  
MATT ZEFFERMAN

January 4, 2021

RECEIVED

JAN 22 2021

MPWMD

Mr. David J Stoldt, General Manager  
Monterey Peninsula Water Management District  
5 Harris Court, Bldg G  
Monterey, CA 93940

Dear Mr. Stoldt:

The Marina Coast Water District (MCWD) is preparing an updated Urban Water Management Plan (UWMP) for submittal to the California Department of Water Resources, pursuant to the Urban Water Management Planning Act, as codified in the California Water Code Sections 10610-10656. The last UWMP was adopted in 2016.

The updated plan is currently being drafted. You will be contacted by our planning consultant for review and input on the development and water demand projections for the planning period, which runs to the year 2040. Our anticipated schedule for public review and plan adoption is:

April 22, 2021	Publish public review draft of the UWMP
May 17, 2021	Conduct public hearing at the regularly scheduled MCWD Board meeting
May 31, 2021	Comment period closes
June 21, 2021	Adopt final UWMP at the regularly scheduled MCWD Board meeting

We will provide you a copy of the public review draft plan in April. We invite your input and comments on the UWMP. Please provide input to our consultant, Schaaf & Wheeler Consulting Civil Engineers, Attn: Andy Sterbenz, 3 Quail Run Circle, Suite 101, Salinas, CA, 93907. Andy may be contacted by phone at (831) 883-4848, or by e-mail at [asterbenz@swws.com](mailto:asterbenz@swws.com). You may contact me by direct phone at (831) 883-5951, or e-mail [pbreen@mcwd.org](mailto:pbreen@mcwd.org).

Sincerely,

Patrick J. Breen

Water Resources Manager





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
**West Coast Region**  
 777 Sonoma Avenue, Room 325  
 Santa Rosa, California 95404-4731

January 29, 2021

Refer to NMFS No: WCRO-2017-7369

George Riley  
 Water Supply Planning Committee Chair  
 Monterey Peninsula Water Management District  
 5 Harris Court, Building G  
 Monterey, California 93940  
 rileyforwaterdistrict@gmail.com

Re: NOAA's National Marine Fisheries Service's (NMFS) Comments on the Construction of a Bypass Pipeline to Allow Simultaneous Pure Water Monterey Recovery and Aquifer Storage Recovery Injection

Dear Mr. Riley:

This letter is in regards to the Monterey Peninsula Management District (MPWMD) Water Supply Planning Committee's (Committee) pending recommendation to the MPWMD Board of Directors (Board) regarding adoption of an addendum to the Aquifer Storage and Recovery (ASR) Environmental Impact Report for construction of a 7,000 linear foot (LF) potable water transmission bypass pipeline in Seaside, California. NOAA's National Marine Fisheries Service (NMFS) is the federal agency responsible for implementing the Federal Endangered Species Act (ESA). The Carmel River supports a population of the federally threatened South-Central California Coast (S-CCC) steelhead (*Oncorhynchus mykiss*) Distinct Population Segment (DPS). NMFS identified the Carmel River as a Core 1 population (highest priority) for the recovery of the S-CCC DPS because of its size, location along the coast, and for its ability to serve as a source population for smaller, neighboring populations of the DPS (NMFS 2013).

For the past 100 years, the primary source of freshwater for the Monterey Peninsula region has been the Carmel River. Overutilization of freshwater in the Carmel River basin from groundwater extraction and surface water diversions contributed to the substantial decline of steelhead in the watershed and their listing under the ESA in 2006. The overutilization of freshwater from the Carmel River constrains steelhead migration and suitable habitat in the Carmel River (NMFS 2013). In most years, as a result of freshwater extractions, up to 9.5 miles of the lower river dries by the late spring/early summer, thereby eliminating considerable portions of juvenile steelhead rearing habitat. Consequently, juvenile steelhead must be rescued from these drying reaches and reared at the Sleepy Hollow Rearing Facility until water conditions are suitable for steelhead to be relocated back to the river. Impaired groundwater elevations and drying of the lower river also curtails steelhead adult and smolt migrations by restricting their ability to transit through a critical migration corridor in late spring and early summer. Finally, reduced flow durations in the lower river have restricted access to and impaired habitat conditions within the lagoon.



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Christopher.Cook@amwater.com  
Copy to ARN File # 151422WCR2017SR00186



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

February 9, 2021

David Stoldt  
General Manager  
Monterey Peninsula Water Management District

RE: Nomination for replacement of Paul Bruno as MPTA representative on Ordinance  
152 Oversight Committee

BY : Email

Dear Mr. Stoldt:

This letter nominates a replacement member for MPTA on the Ordinance 152 Oversight Committee (O/S/C).

MPTA Director Paul Bruno regrets that other commitments preclude his continuing to serve on the O/S/C as the MPTA representative.

MPTA nominates member Rudy Fischer, a resident of Pacific Grove & former PG City Councilman to replace Mr. Bruno.

Mr. Fischer's contact info: e: [rudyfischer@earhlink.net](mailto:rudyfischer@earhlink.net) / TEL: (831) 236-3431.

Alternate nominees:

Rick Heuer, Monterey resident & President MPTA at  
e: [rick@wearehma.com](mailto:rick@wearehma.com) / TEL: (831) 655-0109 (W).

Tom Rowley, Monterey resident & Vice President MPTA at  
e: [TomR2004@hotmail.com](mailto:TomR2004@hotmail.com) / Home Office TEL: (831) 373-5204 (H).

Sincerely yours,

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Heuer', written over a white background.

Rick Heuer  
President