



# Supplement to 9/20/2021 MPWMD Board Packet

Attached are copies of letters received between August 11, 2021 and September 14, 2021. These letters are listed in the September 20, 2021 Board packet under Letters Received.

Author	Addressee	Date	Topic
Eric J. Benink	David J. Stoldt	August 30, 2021	Claim, re: Ordinance No. 152 / Water Supply Charge
Chris Cook, PE	David J. Stoldt	September 1, 2021	Response to M1W and MPWMD Letter dated July 9, 2021, re: Pure Water Monterey Project
Rudy Fischer	MPWMD Board of Directors	September 2, 2021	Water Supply Concerns on the Peninsula
Carmel River Steelhead Association (CRSA)	MPWMD	September 8, 2021	Recognizing Corey Hamilton and the District's Fisheries Crew on a recent CRSA Electrofishing Training Classes held on the Carmel River





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August 30, 2021

Via email: [dstoldt@mpwmd.net](mailto:dstoldt@mpwmd.net) and USPS Express mail

David Stoldt, General Manager  
Monterey Peninsula Water Management District  
P.O. Box 85  
Monterey, CA 93942-0085

RE: Claim re: Ordinance No. 152

Dear Mr. Stoldt:

Please be advised that this firm represents Monterey Peninsula Taxpayers' Association and Richards J. Heuer III (together as "Claimants"). Claimants believe that the Monterey Peninsula Water Management District ("District") is violating Ordinance No. 152 and request that it cease its ongoing illegal activities immediately. A draft lawsuit setting forth the basis of their claims is attached hereto.

Section 6 of Ordinance No. 152 provides for administrative review and appeals of certain types of claims. We do not believe that the claims and allegations described in the draft lawsuit are subject to section 6. Namely, they do not meet any of the conditions of section 6, subdivision B(5). Nevertheless, we transmit this letter and claim out of an abundance of caution. If the District believes that the claims and allegations described in the draft lawsuit are subject to section 6, we provide the following in response to section 6, subdivision B.

(1) The names and addresses of the Claimants:

Monterey Peninsula Taxpayers' Association  
P.O. Box 15  
Monterey, CA 93942

Richards J. Heuer III  
47 Alta Mesa Circle  
Monterey, CA 93940

August 30, 2021

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(2) The address to which Claimants desire notices be sent:

Eric J. Benink, Esq.  
Benink & Slavens, LLP.  
8885 Rio San Diego Dr., Suite 207  
San Diego, CA 92108

(3) The circumstances which give rise to the claims:

See attached draft lawsuit attached hereto.

(4) The street addresses and assessor parcel numbers of each property to which the claim may be applicable:

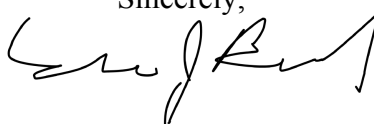
Every property against which the Ordinance No. 152 Water Supply Charge is charged, including, but not limited to Claimant Heuer's real property at 47 Alta Mesa Circle, Monterey, CA 93940. The parcel's APN number is 001-752-013-000.

(5) Facts to demonstrate the basis of the claims. We do not believe that the claims fall into any of the section 6, subdivision B(5) categories (i)-(v). The basis of the claims is set forth in the draft lawsuit.

If the District contends that the claims as described in the draft lawsuit are subject to section 6, Claimants request that the District initiate the administrative process immediately. If it agrees with Claimants that the claims are not subject to section 6, please advise of such. We would also appreciate it if the District would take this opportunity to re-examine its obligations under Ordinance No. 152, which require it to reduce its Water Supply Charge following the reinstatement of the User Charge. In the absence of a written commitment to reduce the Water Supply Charge, we will assume it intends to continue the Water Supply Charge unabated.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Benink". The signature is stylized with a large, sweeping initial "E" and a long, horizontal stroke extending to the right.

Eric J. Benink

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9

10 Attorneys for Petitioners/Plaintiffs

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF MONTEREY**

13 MONTEREY PENINSULA TAXPAYERS' )  
14 ASSOCIATION, INC., a California nonprofit )  
15 corporation; and RICHARDS J. HEUER III, )  
16 an individual, )

17 **Petitioners and Plaintiffs,** )

18 **v.** )

19 THE MONTEREY PENINSULA WATER )  
20 MANAGEMENT DISTRICT, a California )  
21 public agency; and DOES 1 through 10, )

22 **Respondents and Defendants.** )  
23  
24  
25  
26  
27  
28

Case No.:

**VERIFIED PETITION FOR WRIT OF MANDATE**

**and**

**COMPLAINT FOR DECLARATORY RELIEF**

1 Petitioners and Plaintiffs Monterey Peninsula Taxpayers’ Association, Inc. and Richards  
2 J. Heuer III (“Petitioners”) bring this action by and through their undersigned counsel and allege  
3 as follows:

4 **SUMMARY OF ACTION**

5 1. Petitioners challenge the Monterey Peninsula Water Management District’s  
6 (“District’s”) continued imposition of a water supply charge established and authorized by Ordinance  
7 No. 152 on June 27, 2012 (the “Water Supply Charge”). Ordinance No. 152 (§ 10) required the  
8 District to reduce the Water Supply Charge in the event it reinstated a User Fee it previously  
9 collected through California-American Water Company (“Cal-Am”), an investor-owned utility. In  
10 2016, following a California Supreme Court decision, the District reinstated the fee. But the District  
11 did not cease or reduce the Water Supply Charge as its own ordinance required. It continues to  
12 impose the full amount of the Water Supply Charge on property owners within the County.  
13 Petitioners seek a writ of mandate and related relief commanding the District to cease the further  
14 collection of the Water Supply Charge (or to reduce it by the amount of the User Fee) because it  
15 violates Ordinance No. 152 and Proposition 218.  
16

17 **PARTIES**

18 2. Petitioner Monterey Peninsula Taxpayers’ Association, Inc. (“MPTA”) is a  
19 California nonprofit corporation with its primary place of operations in Monterey County. Its  
20 purpose and objective, *inter alia*, are to take appropriate steps to keep taxes as low as possible  
21 consistent with efficiency, progress and development and to sponsor, sanction, promote, and  
22 assist movements in Monterey County for the conservation of tax monies and the efficient use  
23 thereof. Its members are subject to the User Fee and Water Supply Charge at issue herein.

24 3. Petitioner Richards J. Heuer III resides, and has resided at all relevant times, in  
25 Monterey, California. Petitioner is a customer of Cal-Am and, during the relevant time period  
26 when it was in effect, has paid the District’s User Fee collected by Cal-Am. In addition, he also  
27 pays the Water Supply Charge through his property tax bill.  
28

1           4. Defendant Monterey Peninsula Water Management District is a public agency  
 2 organized and existing under the Monterey Peninsula Water Management District Law (See  
 3 West’s Water Code Appendix, Chapter 118 (uncodified).) It is an “agency” and “local  
 4 government” subject to Proposition 218’s mandates. (See Cal. Const., art. <sup>1</sup> XIII C, § 1, subd.  
 5 (b); art. XIII D, § 2, subd. (a).) It is governed by a seven-person board of directors (“Board”).

6           5. Petitioners are unaware of the true names and capacities of respondents/  
 7 defendants sued herein as DOES 1 through 10, inclusive, and therefore sue those respondents/  
 8 defendants by such fictitious names. They are informed and believe, and thereon allege, that  
 9 each of said fictitiously-named respondents/defendants is in some manner responsible for the  
 10 acts, violations, and injuries alleged herein. They will amend this petition and complaint to  
 11 allege the true names and capacities of said fictitiously-named respondents/defendants when the  
 12 same has been ascertained.

13           6. Petitioners are informed and believe, and thereon allege, that at all times herein  
 14 mentioned, each of the respondents/defendants was the agent, employee, representative, partner,  
 15 joint venturer, and/or alter ego of each of the other respondents/defendants and, in doing the  
 16 things alleged herein, was acting within the course and scope of such agency, employment,  
 17 representation, on behalf of such partnership or joint venture, and/or as such alter ego, with the  
 18 authority, permission, consent, and/or ratification of each of the other respondents/defendants.  
 19

#### 20           **GENERAL ALLEGATIONS**

21           7. Water service on the Monterey Peninsula is principally supplied by Cal-Am, an  
 22 investor-owned water supplier, which is regulated by the California Public Utilities Commission  
 23 (“PUC”). Cal-Am owns a water supply, storage, and distribution system on the Monterey  
 24 Peninsula, through which it provides water to over 100,000 residents, including in Carmel-by-  
 25 the-Sea, Monterey, Pacific Grove, Seaside, Del Rey Oaks, and Sand City, as well as some  
 26 unincorporated areas of Monterey County.  
 27

28           \_\_\_\_\_

<sup>1</sup> All references to “art.” herein are to the California Constitution.

1           8.       Because Cal-Am is not a government agency, in 1977 the Legislature created the  
2 District “to carry out such functions which only can be effectively performed by government,  
3 including, but not limited to, management and regulation of the use, reuse, reclamation,  
4 conservation of water and bond financing of public works project.” (Wat. Code App. § 118-2.)  
5 The Legislature conferred on the District broad powers to manage and regulate water use and  
6 distribution in Monterey Peninsula area. (*Id.* at §§ 301-494, pp. 1686-1712.)

7           9.       Beginning in 1983 and at various times as described further herein, the District  
8 imposed a User Fee on Cal-Am customers and contracted with Cal-Am to include this fee on  
9 bills to its customers. Cal-Am collects and remits the User Fee to the District.

10           10.      In 2009, Cal-Am sought the PUC’s approval for a rate increase. In or around March  
11 2011, in connection with that request, the PUC ruled that Cal-Am could no longer collect the User  
12 Fee for the District. Cal-Am ceased the collection shortly thereafter. According to the District, at the  
13 time, the User Fee was the source of approximately 46% (or \$3.7 million) of the District’s annual  
14 revenues, with the remainder derived from property taxes, permit fees, connection charges, and other  
15 sources.  
16

17           11.      Having lost almost half of its annual revenues as a result of the PUC’s ruling, the  
18 District determined to replace the invalidated User Fee with a new fee, a Water Supply Charge,  
19 which would be added to the property tax bill of those property owners subject to the charge. In  
20 April 2012, it mailed a notice to property owners advising that it would conduct a public hearing to  
21 consider a Water Supply Charge at a public hearing on June 12, 2012.

22           12.      In the meantime, the District had retained a rate consultant Bartle Wells Associates  
23 (“BWA”) to prepare a rate study in furtherance of its desire to impose a Water Supply Charge. On  
24 April 12, 2012, BWA issued a “Technical Memorandum” that stated: “Until recently, the District  
25 funded its activities through a user fee collected from Cal-Am customers and other water system  
26 customers on the customer bills. The collection of the user fee was recently eliminated by a ruling of  
27 the California Public Utilities Commission (CPUC) in the General Rate Case of Cal-Am. To  
28



1 continue its activities, the District must now develop a new mechanism for collecting fees.” (See p.  
2 1.)

3 13. The Technical Memorandum also concluded that “[i]n order to maintain fund reserve  
4 balances, meet costs, and to fund new water supply projects, the District will need to recover \$3.7  
5 million annually in user fee revenues” and stated that the District “must restore the user fee revenues  
6 to meet operating and capital expenses, and to fund new water supply activities.” (See pp. 3, 6.) On  
7 April 12, 2012, the Board adopted the Technical Memorandum.

8 14. At the June 12, 2012 public hearing for the Board’s consideration of the Water  
9 Supply Charge, members of the public mounted a vigorous opposition; thousands of written protests  
10 were submitted. The Board counted 10,343 valid written protests from a possible 30,509 eligible  
11 parcels.

12 15. In the face of the outcry from the public, the Board twice continued the hearing to  
13 consider the Water Supply Charge: once to June 19, 2012, and then again to June 27, 2012. During  
14 that period, District staff communicated or met with at least eight groups<sup>2</sup>, including MPTA, to  
15 consider their concerns and to attempt to reach agreement in order to avoid litigation.

16 16. At the June 27, 2012 continued hearing, District staff gave a slideshow presentation  
17 which reflected “Topics of Compromise & Agreement” referring to its discussions and  
18 communications with the community groups. One of the items identified was “stronger ‘sunset’  
19 provisions.” Staff also presented “Potential Modifications to Ordinance No. 152” (Handout 3) which  
20 included proposed language for sunset clauses.

21 17. At the June 27, 2012 continued hearing, the Board adopted Ordinance No. 152 which  
22 incorporated the modifications set forth in Handout 3. Ordinance No. 152 imposed a Water Supply  
23  
24

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25 <sup>2</sup> In addition to MPTA, the District met with Monterey County Association of Realtors, Coalition  
26 of Peninsula Businesses, Monterey County Republican Party (Dist. 5), Monterey Peninsula  
27 Chamber of Commerce, Citizens for Public Water, Carmel Valley Association, Monterey  
28 Peninsula Regional Water Authority. The Monterey County Association of Realtors retained  
counsel who transmitted a critique of the Technical Memorandum prepared by another rate  
consultant, Raftelis Financial Consultants, Inc.

1 Charge on property owners via a meter fee (based on meter size) and a water usage fee (based on  
2 type and size of structure).

3 18. Ordinance No. 152 states: “The purpose of this Ordinance is to replace and augment  
4 the former charge collected by CAW (Cal-Am) on its bills to water customers with a supply charge  
5 collected from owners of parcels that receive from the District through CAW’s distribution system.”  
6 (See Findings, ¶ 10.) It also states: “Notwithstanding any other provision of this Ordinance, the  
7 District shall not collect a water supply charge pursuant to this Ordinance: ... (b) to the extent  
8 alternative funds are available via a charge collected on the California American Water Company  
9 bill....” (See § 10.) In other words, if the then-invalidated User Fee was reinstated – or some other  
10 fee was instituted and collected through Cal-Am’s water bills – then the amount collected via the  
11 Water Supply Charge would be reduced pro rata from the fees collected from Cal-Am’s bills. This  
12 provision – which placed a severe restriction on the District’s ability to charge the full amount of the  
13 Water Supply Charge – was forged through compromise and public participation, and adopted by the  
14 Board to mollify angry constituents.

15  
16 19. The District has no discretion to disregard Ordinance No. 152, section 10’s  
17 provisions. In fact, one of the other modifications presented in Handout 3 that the Board considered  
18 and ultimately adopted was section 13. Section 13 provides that the Board may not amend any part  
19 of Ordinance No. 152 unless it conducts another public hearing, mails notice, and allows for protests  
20 (as required by section 6, subdivision (a).) The only exceptions are (a) to suspend the Water Supply  
21 Charge, (b) reduce its rate, or (c) repeal the ordinance in its entirety. In order words, the District  
22 agreed to not repeal or amend the sunset provisions (a power it would normally hold) without an  
23 entirely new Proposition 218 process.

24 20. In a Frequently Asked Questions document published by the District (dated July  
25 2012) informing the public about the implementation of the Water Supply Charge, the District  
26 explained:

27 **1. *Why is this charge needed?***  
28

1           a. *When the California Public Utilities Commission (CPUC) took away the*  
 2 *collection of the MPWMD user fee through the Cal Am bill, the District was left with a*  
 3 *\$3.7 million gap in its budget...Without a replacement of that revenue source, the*  
 4 *District does not have the ability to fund development of much-needed water supply*  
 5 *projects.*

6           **2.       *What was wrong with the old user fee and collection method?***

7           a. *The CPUC disallowed the collection of the District's user fee to be passed*  
 8 *through on the Cal Am bill. The judge agreed that the user fee was legal, but stated*  
 9 *that she would disallow the charge to be collected on the Cal Am bill.*

10           \*\*\*

11           **14.       *Is there a sunset date for the charge?***

12           ....*Additionally, no supply charge shall be collected if alternative funds become*  
 13 *available via a charge on the Cal Am bill.*

14           21.       While the District was working toward implementing the Water Supply Charge, it  
 15 was also continuing to challenge the PUC's decision to disallow the User Fee. In February 2013, it  
 16 filed a Petition for Review of the PUC's decision before the California Supreme Court. The Supreme  
 17 Court granted review and on January 25, 2016, issued an opinion setting aside the PUC's decision.  
 18 (*Monterey Peninsula Water Management Dist. v. California Public Utilities Com. (2016) 62 Cal.4th*  
 19 *693.*)

20           22.       Although the District had secured a replacement fee via the Water Supply Charge, it  
 21 nevertheless determined to reinstate the prior User Fee following the Supreme Court's ruling.  
 22 Counsel for the District opined in a March 16, 2016 memorandum that, with respect to the User Fee,  
 23 the District need not comply with Proposition 218's mandates (notice, hearing, protest rights) if the  
 24 User Fee was based on fee ordinances that either pre-existed Proposition 218 or had already been  
 25 subjected to Proposition 218's requirement. The memorandum concluded that the two components  
 26 of the User Fee met these requirements.  
 27  
 28

1           23.     On February 17, 2016, the Board adopted Resolution No. 2016-03 “Reestablish User  
2 Fee and Suspend its Collection for Remainder of Fiscal Year 2015-16.” On March 21, 2016, the  
3 Board adopted Resolution No. 2016-05 “Reestablish User Fee and Suspend its Collection For  
4 Remainder of Fiscal Year 2015-16” (superseding Resolution No. 2016-03.) Subsequently, the  
5 District began imposing on, and Cal-Am began collecting, the same User Fee that the PUC had  
6 previously disallowed from Cal-Am customers through Cal-Am water bills. This imposition and  
7 collection are continuing today.

8           24.     In an April 18, 2016 staff report prepared by District General Manager David Stoldt,  
9 Stoldt acknowledged Ordinance No. 152’s sunset provision and stated that “it is incumbent upon the  
10 board to examine its needs and availability of its two primary funding sources and develop a plan for  
11 their use, including reductions or possible sunsets of either or both.” Nevertheless, Stoldt  
12 recommended (together with the District’s Chief Financial Officer) that the District collect both  
13 charges for at least 3 years.

14           25.     In 2018, during that three-year period, the District initiated a ballot measure (Measure  
15 J) to seek approval of a District policy to acquire Cal-Am’s assets (either through negotiation or  
16 eminent domain). Voters approved Measure J at a November 28, 2018 election.

17           26.     On February 6, 2019, the District’s counsel issued a memorandum that opined that  
18 the District could utilize Water Supply Charge proceeds to implement Measure J (i.e. to engage in an  
19 expensive eminent domain proceeding). It relies on the “plain language” of Ordinance No. 152.  
20 Petitioners take no position on the legality of using Water Supply Charge proceeds to fund Measure J  
21 efforts in this litigation.

22           27.     As set forth above, Ordinance No. 152 provides that the District shall not collect the  
23 Water Supply Charge to the extent alternative funds are available via a charge collected on the Cal-  
24 Am bill. Alternative funds are now available via a charge collected on the Cal-Am (i.e., the  
25 reinstated User Fee.) The District was required to reduce the Water Supply Charge in the amount of  
26 the User Charge but it has not done so. The District is violating Ordinance No. 152 each time it  
27 imposes the Water Supply Charge on property tax bills.  
28





1           1.       For a writ of mandate directing Respondents to cease the imposition and collection  
2 of Water Supply Charge by the amount of the User Charge.

3           2.       For a declaratory judgment declaring that (a) Defendants have violated, are  
4 continuing to violate Ordinance No. 152 (§ 10) and article XIII D, section 6, subdivision (b),  
5 subdivision (2) and (b) Ordinance No. 152 (§ 10) requires the District to reduce the Water  
6 Service Charge by the amount of the User Fee.

7           3.       An award of attorneys’ fees and costs, including those recoverable pursuant to  
8 California Code of Civil Procedure section 1021.5 and/or other applicable method of awarding  
9 attorney’s fees and costs; and

10          4.       For any such further relief as may be permitted by law and/or that the Court deems  
11 equitable, just and proper.

12  
13 August \_\_\_\_\_, 2021

**BENINK & SLAVENS, LLP.**

**DRAFT**

Eric J. Benink, Esq.  
Attorneys for Petitioners/Plaintiffs

**VERIFICATIONS**

I, Richards J. Heuer III, declare:

I have read the foregoing August 30, 2021 Claim Letter and the draft Verified Petition for Writ of Mandate and Complaint for Declaratory Relief attached thereto and know their contents. With respect to the matters about me personally, the matters stated therein are true based on my personal knowledge. With respect to the remaining allegations, I believe them to be true based on the investigation of my attorneys.

I certify, upon penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this verification was executed on the date shown below in Vista, California.



Richards J. Heuer III

Dated: August 30, 2021

I, Richards J. Heuer III, declare:

I have read the foregoing August 30, 2021 Claim Letter and the draft Verified Petition for Writ of Mandate and Complaint for Declaratory Relief attached thereto and know their contents. I am the president of Monterey Peninsula Taxpayers' Association, Inc. (MPTA). With respect to the matters about MPTA personally, the matters stated therein are true based on my personal knowledge. With respect to the remaining allegations, I believe them to be true based on the investigation of my attorneys.

I certify, upon penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this verification was executed on the date shown below in Vista, California.



Richards J. Heuer III, President  
Monterey Peninsula Taxpayers'  
Association, Inc.

Dated: August 30, 2021





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www.amwater.com

P: 831.646.3241  
C: 831.277.2405

September 1, 2021

David Stoldt, General Manager  
[dstoldt@mpwmd.net](mailto:dstoldt@mpwmd.net)  
Monterey Peninsula Water Management District  
PO Box 85  
Monterey, CA 93942-0085

Paul Sciuto, General Manager  
[paul@my1water.org](mailto:paul@my1water.org)  
Monterey One Water  
5 Harris Court, Building D  
Monterey, CA 93940

Dear Mr. Stoldt and Mr. Sciuto:

This letter responds to the attached July 9, 2021 letter (Joint Letter) to California American Water (Cal Am) from Monterey Peninsula Water Management District (MPWMD) and Monterey One Water (M1W) concerning a June 29<sup>th</sup> 2021 meeting at which Cal Am was notified of an apparent failure of the Pure Water Monterey Project (Project) to comply with underground retention times required for groundwater replenishment reuse projects.

As you know, state regulations, and M1W's Project permit from the California Regional Water Quality Control Board (RWQCB Order No. R3-2017-0003), require treated recycled wastewater to meet specific requirements for potable reuse necessary for the protection of public health, including state-approved response retention times. These regulations are designed to ensure that recycled water is retained underground for a sufficient period of time to identify any treatment failures and implement actions so that inadequately treated recycled water does not enter a potable water system (22 CCR § 60320.124; RWQCB Order R3-2017-0003, ¶ 30). Based on the monitoring data provided by the MPWMD under the methodologies specified in 22 CCR § 60320.224, it appears that the minimum retention time is not achieved at ASR Well 01/02 site.

Cal Am is concerned not only about the ability of the Project to meet fundamental state requirements for the use of recycled water for potable water purposes, but also the extreme delay in notifying Cal Am of the Project's failure to meet underground retention time requirements. MPWMD's delay of seven months before notifying M1W in May 2021 of the results of sampling conducted in October 2020, and the further one-month delay of both M1W and MPWMD in notifying Cal Am in June 2021 is not acceptable. M1W's RWQCB permit

requires notification to the Central Coast Water Board, DDW, and all purveyors drawing potable water from the Seaside Basin within 24 hours of becoming aware of a permit violation.

Additionally, the Project Water Purchase Agreement requires that all recycled water delivered by M1W to MPWMD, and by MPWMD to the Delivery Point, meet the water quality requirements set forth in Applicable Law, including all state regulations and permits that apply to the services provided by any party under the Water Purchase Agreement. Clearly, the Project's ability to satisfy state regulations and comply with regulatory permits to ensure sufficient treatment and underground retention of recycled water is MPWMD's and M1W's joint responsibility.

Cal Am is also concerned about certain interim measures proposed in the Joint Letter to allow the Project to meet regulatory compliance requirements, particularly the proposal to delay using ASR-1 well extraction. As customer water use increases during summer months, extraction from ASR-1 will be needed to meet system demand. Eliminating the availability of ASR-1 for extraction also eliminates any operational redundancy, a necessary safeguard in case other major producing Seaside Wells need to be taken offline. Consequently, a failure of the Project to comply with retention requirements may require reduction in Project injection rates.

We understand that MPWMD and M1W also propose conducting an added tracer study, modeling studies, and sampling of ASR-4. While none of these options are guaranteed to provide the required state approval by our operational deadline of June 2022, we feel these are the right steps forward. However, the Joint Letter also proposes constructing an intertie from the Paralta well to the Santa Margarita site and completion of EW-1 & EW-2 prior to June 2022. Cal Am has significant concerns about the feasibility of these options, as well as the impact these measures may have on Cal Am's ability to withdraw native Seaside Basin water and stored ASR water for service to its customers.

The impact of any failure of the Project to comply with regulatory requirements cannot be overstated. It is imperative that the Project's injection well field remain robust with sufficient redundancy and factors of safety, since water supplied from the Project and its proposed expansion will supply the majority of the drinking water for the Monterey Peninsula and Cal Am's customers. By the end of 2021, Cal Am has been ordered to reduce its Carmel River diversions to its authorized diversion limits, and is relying on the availability of recycled water from the Project to achieve compliance.

Cal Am must be informed in a timely manner about all potential failures in Project operations, proposed solutions, schedule, regulatory approvals, and any resulting impact on deliveries of AWT Water.

Sincerely,



Chris Cook, PE  
Director of Operations – Central Division  
E: Christopher.Cook@amwater.com  
www.amwater.com

Attachment: Joint Letter

CC: Alvin Edwards, Chair, MPWMD Board of Directors, alvinedwards420@gmail.com  
Mary Ann Carbone, Chair, M1W Board of Directors, sandcityrep@my1water.org  
Ian Crooks, VP of Engineering, Cal Am, ian.crooks@amwater.com



Copy by email to [ian.crooks@amwater.com](mailto:ian.crooks@amwater.com)

July 9, 2021

Ian Crooks, VP Engineering  
California American Water  
655 W. Broadway, Suite 1410  
San Diego, CA 92101

**RE: Pure Water Monterey Injection Wells Update & Seaside Groundwater Basin Management Coordination**

Dear Mr. Crooks,

Monterey One Water (M1W) and Monterey Peninsula Water Management District (MPWMD) thought it would be helpful to summarize our June 29<sup>th</sup> meeting with you and Chris Cook. Other technical consultants in attendance included staff from Todd Groundwater, Trussell Tech and Montgomery & Associates. The meeting objective was to share with California American Water Company (Cal Am) the findings of the recent Pure Water Monterey (PWM) injection wells Tracer Study and subsequent groundwater modeling, while also coordinating related Seaside Groundwater Basin management issues. The Tracer Study and recent modeling indicate the underground travel times for injected purified water are somewhat faster than originally anticipated. The injection capacity is not affected; however, there is a concern with the Study's implications on extraction capacity.

Gus Yates, with Todd Groundwater, presented the findings of the Tracer Study and groundwater modeling. Results of the study illustrate that if ASR-1 comes back online in October 2021, the travel time could be below the regulatory minimum allowable 2 month retention time.

On our call, Jon Lear, with MPWMD, and Gus Yates outlined basin management options for Cal Am to consider that would allow PWM to meet regulatory compliance requirements, while meeting Cal Am's water supply needs. The concepts included the following:

1. Delay start-up of ASR-1 extraction
2. Complete DDW permit for ASR-4 well production
3. Construct an intertie from Paralta well to Santa Margarita site
4. Conduct an added extrinsic tracer study to receive 1:1 travel time credited time vs. 1: 0.67 provided by the intrinsic tracer study and modeling. (Note: this would be in combination with other methods identified above)

Ian Crooks, VP Engineering  
California American Water (Cal Am)  
July 9, 2021  
Page 2 of 3

David Stoldt also discussed using Carmel River water supplies in Oct – Dec 2021 to minimize pumping demands.

Jon Lear outlined an approach which allows Cal Am to operate ASR-3 and ASR-4 so that Cal Am can meet its demands beginning in October. This approach requires an acceleration of the ASR-4 extraction permit approval process. The cone of depression and interference using both ASR-3 and 4 would have less effect than using ASR-1 and 2, which are closer together. It is anticipated that ASR-3 and 4 could extract 3,000 – 3,500 GPM.

Gus Yates stated that the team will model a long-term basis as if M1W shifts all the injection to DIW-3 & 4 and later, as part of the Expanded PWM, add a fifth deep injection well and, also a sixth. In the short term (without additional expansion deep injection wells), the yield would need to be reduced by 10-20% to meet minimum detention times without using DIW-1 & 2. Therefore, the option of ASR-1 extracting is not available this calendar year. It was iterated that Cal Am should shift extraction from wells other than ASR-1 in the interim, at least for Oct 2021 – March 2022. However, reducing injection from DIW-1&2 is not viewed as a long-term solution

Chris Cook reiterated action items for Cal Am:

- Determine available use of additional Carmel River supplies from Oct – Dec 2021
- Verify if ASR-3 & 4 can meet the demand in Jan – May of 2022
- Determine if ASR-1 can be used for injection when extracting from ASR-3
- Pursue acceleration of ASR-4 extraction permit and request DDW set aside the application for ASR-2
- Confirm adequate operational redundancy
- Proposed M1W conduct the added tracer study and requested support from MPWMD to help determine ASR-1 injection/ASR-3 extraction verification.

M1W actions to help address this issue:

- Implement daily strontium monitoring (May 18, 2021)
- Calibrate groundwater model to intrinsic tracer data for updated modeling (May-July)
- Review alternatives for additional log removal credits
- Complete 2 additional deep injection wells
- Continue to collaborate with Cal Am and MPWMD

It was also noted that M1W would share the same Tracer Study and groundwater modeling results with the State Division of Drinking Water (DDW) and the Regional Water Quality Control Board (RWQCB). An initial meeting with DDW and RWQCB occurred on July 6, 2021 with a follow-up meeting scheduled for July 14, 2021. Further meeting topics include the positive contribution of additional water treatment log removal credits along with proposed M1W action items that will ensure PWM moves forward while staying in full regulatory compliance.

Sincerely,



Paul A. Sciuto  
General Manager  
M1W



David J. Stoldt  
General Manager  
MPWMD





**From:** [Rudy Fischer](#)  
**To:** [Joel Pablo](#)  
**Cc:** [Catherine Bowie Stedman](#); [Rick Heuer](#); [kdayton@daytonpublicpolicy.com](mailto:kdayton@daytonpublicpolicy.com); [Moe Ammar](#)  
**Subject:** Message to the board for tonight's meeting  
**Date:** Thursday, September 2, 2021 12:30:26 PM

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Ladies and gentlemen;

In looking at your agenda package for tonight, it looks like you are starting to go down the same road that the Marina Coast Water District went down many years - and millions of dollars - ago. Your role as Directors of MPWMD is to manage and enhance water supplies for the Peninsula; not spend all of the public's money on litigation. I urge you to change direction and start working with those involved in providing water, not against them.

Rudy Fischer  
(831) 236-3431



**RECEIVED****SEP 08 2021****MPWMD**

Carmel River Steelhead Association  
501 (c) (3) TIN 77 - 0093979  
P.O. Box 1183  
Monterey, CA 93942

August 30, 2021

Dear Friends at The Monterey Peninsula Water Management District

The Carmel River Steelhead Association (CRSA) appreciates the assistance and the partnering from the Monterey Peninsula Water Management District (MPWMD) on the recent CRSA organized electrofishing training classes held on the Carmel River.

CRSA was able to access the river, train the students, rescue fish, tag fish and in general allow a full experience to the students on the entirety of electrofishing including the rescuing of steelhead and how they are handled once they have been removed from the river.

In particular CRSA would like to recognize Corey Hamilton and his fisheries crew for their generous work and help in making this event even more successful than it might have been.

CRSA recognizes the importance of these partnerships and we are encouraged when they further promote the wellness of the Carmel River and its STEELHEAD fish.

Our thanks and gratitude  
Carmel River Steelhead Association