

1 JON D. RUBIN, State Bar No. 196944
2 VALERIE C. KINCAID, State Bar No. 231815
3 DIEPENBROCK HARRISON
4 A Professional Corporation
5 400 Capitol Mall, Suite 1800
6 Sacramento, CA 95814-4413
7 Telephone: (916) 492-5000
8 Facsimile: (916) 446-4535
9 Attorneys for California American
10 Water Company

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Draft Cease and Desist Order
No. 2008-00XX-DWR Against California
American Water Company

STIPULATION

[PROPOSED] RULING

1. As explained during the first phase of this hearing, held on June 19 and 20, 2008, California American Water Company intended to present as evidence certain documents filed with or prepared by staff of the State Water Resources Control Board ("State Water Board"). The documents are identified in Attachment A hereto.

2. The prosecutorial team designated for this proceeding and California American Water agreed and stipulated, subject to the condition provided in paragraph 4 below, to move into evidence each of the documents identified in Attachment A hereto, provided any document in Attachment A already exists in the State Water Board's files, or is a final document authored by staff of the State Water Board. Through this pleading, the prosecutorial team and California American Water hereby memorialize in writing their agreement and stipulation.

3. The prosecutorial team and California American Water presented the terms of their agreement and stipulation during the first phase of the hearing. Those who represented entities participating in this proceeding were provided an opportunity to raise objections to the agreement and stipulation. No objections were raised.

1 4. Notwithstanding any other provision herein, the prosecutorial team and any other
2 participant in this proceeding will have the right to object to the admission into evidence of any
3 document identified in Attachment A hereto above only on the grounds of relevance or lack of
4 conformity with the conditions of this stipulation. No other objections shall considered by the
5 hearing officers.

6 5. If the hearing officers do not issue a ruling admitting into evidence each of the
7 documents identified in Attachment A hereto, California American Water may request the hearing
8 officer reconvene the first phase of this hearing to allow California American Water the opportunity
9 to conduct additional cross-examination of the witnesses who testify on behalf of the prosecution
10 team for the limited purpose of questioning the witnesses on the documents identified in
11 Attachment A. If California American Water makes such a limited request, the prosecution team
12 will support it, without waiving its right to make objections during the questioning of the witnesses.

13 Respectfully submitted,

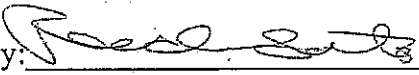
14 Dated: July 9, 2008

DIEPENBROCK HARRISON
A Professional Corporation

16
17 By  for JDR
18 JON D. RUBIN
Attorneys for California-American Water Company

19
20 Dated: 7/9/08

STATE WATER RESOURCES CONTROL BOARD
Office of Enforcement

21
22
23 By: 
24 REED SATO
Attorneys for the Prosecutorial Team

1 Based on the above agreement and stipulation, argument presented during the first phase of
2 this hearing, which was held on June 19 and 20, and all other information in the record for this
3 proceeding, the hearing officers hereby admit into evidence each of the documents identified in
4 Attachment A hereto; provided that the hearing officers will consider an objection to any of the
5 documents identified in Attachment A hereto on the grounds of relevance or lack of conformity with
6 the conditions of the above stipulation, within 10 days of the filing of closing briefs with the State
7 Water Resources Control Board. No other objections will be considered by the hearing officers.

8 Dated:

Dated:

9
10
11 _____
12 Arthur G. Baggett, Jr.
Board Member and Hearing Officer

Gary Wolff, P.E., Ph.D.
Vice Chair and Hearing Officer

ATTACHMENT A

ATTACHMENT A

1. All quarterly reports submitted by California American Water Company to the State Water Resources Control Board ("State Water Board") pursuant to Order WR 95-10 for the period of October of 1995 through October of 2007.
[Not served herewith, as they were previously marked as Exhibits CAW 30B-30WW and served by California American Water ("CAW").]
2. State Water Board responses prepared in response to CAW's quarterly reports identified in paragraph 1 to this Attachment A.
[Responses within the possession of CAW are served herewith. If CAW cites other responses in its closing brief or reply to closing briefs, CAW will serve the other response(s) at that time.]
3. April 25, 1996 letter from W. Pettit, Executive Director, State Water Board, to L. Foy, CAW.
4. September 19, 1996 letter from E. Anton, Chief, Division of Water Rights ("DWR"), to J. Haines.
5. September 20, 1996 letter from E. Anton, Chief, DWR, to L. Foy, CAW.
6. September 20, 1996 memorandum to file from K. Mrowka, Associate Engineer, DWR.
7. October 28, 1996 DWR contact report.
8. November 25, 1996 letter from R. Baiocchi, California Sportfishing Protection Alliance, to E. Anton and K. Mrowka, State Water Board.
9. December 24, 1996 letter from E. Anton, Chief, DWR, to R. Baiocchi, California Sportfishing Protection Alliance.
10. February 27, 1997 letter from E. Anton, Chief, DWR, to E. Lee.
11. May 14, 1997 letter from W. Pettit, Executive Director, State Water Board to the CPUC.
12. May 15, 1997 letter from W. Pettit, Executive Director, State Water Board to L. Foy, CAW.
13. May 15, 1997 draft letter from W. Pettit, SWRCB, to L. Foy, CAW.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 14. November 17, 1997 letter from E. Anton, Chief, DWR to R. Baiocchi, California Sportfishing Protection Alliance.
- 15. December 4, 1997 letter from E. Anton, Chief, DWR, to R. Chappell.
- 16. December 4, 1997 letter from E. Anton, Chief, DWR to C. Crane.
- 17. November 13, 1998 letter from W. Pettit, Executive Director, State Water Board to C. Sanders, Camel River Steelhead Association.
- 18. September 2, 1999 letter from K. Mrowka, State Water Board, to J. Almond, CAW.
- 19. March 27, 2001 letter from H. Schueller, State Water Board, to T. Ryan, CAW.
- 20. January 14, 2004 letter from V. Whitney, Chief, DWR, to F. Farina, Acting General Manager, MPWMD.
- 21. June 7, 2006 letter to CAW and MPWMD.

1 **PROOF OF SERVICE**

2 I declare as follows:

3 I am over 18 years of age and not a party to the within action; my business address is 400
4 Capitol Mall, Suite 1800, Sacramento, California, I am employed in Sacramento County, California.

5 On July 9, 2008, I served a copy of the foregoing document entitled STIPULATION;
6 [PROPOSED] RULING on the following interested parties in the above-referenced case number to
7 the following:

8 See Attached Service List of Participants

9 **BY MAIL**

10 By following ordinary business practice, placing a true copy thereof enclosed in a sealed
11 envelope, for collection and mailing with the United States Postal Service where it would
12 be deposited for first class delivery, postage fully prepaid, in the United States Postal
13 Service that same day in the ordinary course of business as indicated in the attached
14 Service List of Participants and noted as "Service by Mail."

15 **ELECTRONIC MAIL**

16 I caused a true and correct scanned image (.PDF file) copy to be transmitted via the
17 electronic mail transfer system in place at Diepenbrock Harrison, originating from the
18 undersigned at 400 Capitol Mall, Suite 1800, Sacramento, California, to the e-mail
19 address(es) indicated in the attached Service List of Participants and noted by "Service by
20 Electronic Mail."

21 **BY FACSIMILE** at _____ a.m./p.m. to the fax number(s) listed above. The
22 facsimile machine I used complied with California Rules of Court, rule 2003 and no error
23 was reported by the machine. Pursuant to California Rules of Court, rule 2006(d), I
24 caused the machine to print a transmission record of the transmission, a copy of which is
25 attached to this declaration.

26 A true and correct copy was also forwarded by regular U.S. Mail by following ordinary business
27 practice, placing a true copy thereof enclosed in a sealed envelope, for collection and mailing with the
28 United States Postal Service where it would be deposited for first-class delivery, postage fully prepaid, in
the United States Postal Service that same day in the ordinary course of business.

BY OVERNIGHT DELIVERY

Federal Express Golden State Overnight
Depositing copies of the above documents in a box or other facility regularly maintained
by Federal Express, or Golden State Overnight, in an envelope or package designated by
Federal Express or Golden State Overnight with delivery fees paid or provided for.

PERSONAL SERVICE

via process server
 via hand by

1 I certify under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct and that this declaration was executed on July 9, 2008, at Sacramento, California.

3
4 
5 Jolanthe V. Onishi
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 CALIFORNIA AMERICAN WATER CEASE AND DESIST ORDER
2 JUNE 19, 2008 HEARING
3 SERVICE LIST OF PARTICIPANTS

4 Service by Electronic Mail:

5 **Division of Ratepayer Advocates**
6 Andrew Ulmer
7 Division of Ratepayer Advocates
8 California Public Utilities Commission
9 505 Van Ness Avenue
10 San Francisco, CA 94102
11 (415) 703-2056
12 eau@cpuc.ca.gov

State Water Resources Control Board
Reed Sato
Water Rights Prosecution Team
1001 I Street
Sacramento, CA 95814
(916) 341-5889
rsato@waterboards.ca.gov

9 **Public Trust Alliance**
10 Michael Warburton
11 Resource Renewal Institute
12 Room 290, Building D
13 Fort Mason Center
14 San Francisco, CA 94123
15 Michael@rri.org

Sierra Club - Ventana Chapter
Laurens Silver
California Environmental Law Project
P.O. Box 667
Mill Valley, CA 94942
(415) 383-7734
larrysilver@earthlink.net
jgwill@dcn.davis.ca.us

13 **Carmel River Steelhead Association**
14 Michael B. Jackson
15 P.O. Box 207
16 Quincy, CA 95971
17 (530) 283-1007
18 mjatty@sbcglobal.net

California Sportfishing Protection Alliance
Michael B. Jackson
P. O. Box 207
Quincy, CA 95971
(530) 283-1007
mjatty@sbcglobal.net

17 **City of Seaside**
18 Russell M. McGlothlin
19 Brownstein, Hyatt, Farber, Schreck
20 21 East Carrillo Street
21 Santa Barbara, CA 93101
22 (805) 963-7000
23 RMcGlothlin@BHFS.com

The Seaside Basin Watermaster
Russell M. McGlothlin
Brownstein, Hyatt, Farber, Schreck
21 East Carrillo Street
Santa Barbara, CA 93101
(805) 963-7000
RMcGlothlin@BHFS.com

21 **Pebble Beach Company**
22 Thomas H. Jamison
23 Fenton & Keller
24 P.O. Box 791
25 Monterey, CA 93942-0791
26 (831) 373-1241
27 TJamison@FentonKeller.com

National Marine Fisheries Service
Christopher Keifer
501 W. Ocean Blvd., Suite 4470
Long Beach, CA 90802
(562) 950-4076
christopher.keifer@noaa.gov

1 **Service by Electronic-Mail (Cont.):**

2 **Monterey County Hospitality Association**

3 Bob McKenzie
4 P.O. Box 223542
5 Carmel, CA 93922
6 (831) 626-8636
7 info@mcha.net
8 bobmck@mbay.net

**California Salmon and Steelhead
Association**

Bob Baiocchi
P.O. Box 1790
Graeagle, CA 96103
(530) 836-1115
rbaiocchi@gotsky.com

7 **Planning and Conservation League**

8 Jonas Minton
9 1107 9th Street, Suite 360
10 Sacramento, CA 95814
11 (916) 719-4049
12 jminton@pcl.org

City of Sand City

James G. Heisinger, Jr.
Heisinger, Buck & Morris
P.O. Box 5427
Carmel, CA 93921
(831) 624-3891
hbm@carmellaw.com

11 **Monterey Peninsula Water Management
District**

12 David C. Laredo
13 De Lay & Laredo
14 606 Forest Avenue
15 Pacific Grove, CA 93950
16 (831) 646-1502
17 dave@laredolaw.net

16 **Service By Mail:**

17 **City of Carmel-by-the-Sea**

18 Donald G. Freeman
19 P.O. Box CC
20 Carmel-by-the-Sea, CA 93921
21 (831) 624-5339 ext. 11
22
23
24
25
26
27
28

TAB NO. 1

Not served herewith, as they were previously marked as Exhibits CAW 30B-30WW and served by California American Water

TAB NO. 2

State of California

M e m o r a n d u m

To : Application 11674A, 262.0 Complaint File
on Carmel River

Date : DEC 21 1995

Katherine Mrowka

From : Katherine Mrowka
Associate WRC Engineer
DIVISION OF WATER RIGHTS
STATE WATER RESOURCES CONTROL BOARD
901 P Street, Sacramento, CA 95814
Mail Code: G8

Subject : EVALUATION OF CALIFORNIA-AMERICAN WATER COMPANY'S (CAL-AM)
COMPLIANCE WITH THE CONDITIONS OF ORDER WR 95-10--CARMEL RIVER
IN MONTEREY COUNTY

By letter dated October 3, 1995, Cal-Am submitted a report documenting its compliance with the thirteen conditions of Order WR 95-10. The submittal has been reviewed by Division of Water Rights (Division) staff. The results of that review are documented below.

Order Condition No. 1:

Cal-Am shall forthwith cease and desist from diverting any water in excess of 14,106 afa from the Carmel River, until unlawful diversions from the Carmel River are ended.

Cal-Am Response:

Cal-Am produced a total of 9,315 acre-feet (af) from September 1994 through August 1995, including 4,142 af from San Clemente Dam and 5,173 af from Carmel Valley wells.

Division Review:

Cal-Am identifies the period September 1994 through August 1995 as the 1994-95 water year. The water year begins on October 1 and ends on September 30. This labelling convention should be utilized in future submittals, because Cal-Am is required to submit water year data pursuant to condition (3).

The Cal-Am submittal contains mathematical errors regarding production from the Carmel Valley wells. Division staff calculates that the total production during the period September 1994 to August 1995 from the Carmel Valley wells was 6,086.1 af.

September 1994	October 1994	November 1994	December 1994	January 1995	February 1995
1040.0	822.0	421.0	461.0	735.5	386.4

March 1995	April 1995	May 1995	June 1995	July 1995	August 1995	Total
691.9	288.3	24.9	157.4	323.1	734.6	6,086.1

Further, the submittal does not include production from the Water West wells in the total production from the Carmel River. The Water West wells are located in the Carmel River alluvium and are owned by Cal-Am¹. Therefore, these wells should be included in the production totals. Division staff calculates the following production total for the period September 1994 to August 1995:

San Clemente Dam	Carmel Valley Wells	Water West	Total
4,142.1	6,086.1	137.4	10,365.6

Therefore, Division staff calculates that Cal-Am diverted 1,051 af more from the Carmel River than the agency reported in its submittal (10,366 af - 9,315 af = 1,051 af).

No information was submitted to document whether the entry titled "Carmel Valley wells" includes all of the wells identified on Figure 3 of Order WR 95-10. Cal-Am should submit information to document that it is reporting water diversion from all of the facilities identified in the order and should also submit a drawing which identifies the location of all reported wells.

The order requires Cal-Am to provide monthly water diversion data. In addition to this requirement, condition 3(b) of the order requires Cal-Am to restrict water diversion to specified levels for each water year. In order to comply with this condition, Cal-Am should report both continual monthly data and water year data in future submittals.

Order Condition 2:

Cal-Am shall diligently implement one or more of the following actions to terminate its unlawful diversions from the Carmel River: (1) obtain appropriate permits for water

¹ The submittal reports water use at the Ryan Ranch and Hidden Hills wells. Both sets of wells are located outside of the Carmel River alluvium. The Carmel River hearing exhibits confirm that the Ryan Ranch wells are not located in the alluvium, and the location of the Hidden Hills wells was confirmed by Mr. Craig Close of Cal-Am during a November 15, 1995 telephone conversation.

being unlawfully diverted from the Carmel River, (2) obtain water from other sources of supply and make one-for-one reductions in unlawful diversions from the Carmel River, provided that water pumped from the Seaside aquifer shall be governed by Condition 4 of this Order not this condition, and/or (3) contract with another agency having appropriate rights to divert and use water from the Carmel River.

Cal-Am response to condition 2(1):

Cal-Am has taken the steps necessary to obtain appropriate permits by filing Application 30215 and is proceeding to split the application into two parts -- 30215A to cover the 2,964.0 afa in Table 13 of Decision 1632 and 30215B for 42 cubic feet per second.

Division review:

Order 95-10 found that Cal-Am is diverting about 10,730 afa from the Carmel River or its underflow without a valid basis of right. Application 30215A has the potential to provide 2,964 afa to Cal-Am during a diversion season which may extend throughout the year². Even if a permit is issued to Cal-Am pursuant to Application 30215A which authorizes diversion of 2,964 afa throughout the year, Cal-Am requires additional legal basis of right for its use of water

Application 30215B will be junior to Permit 20808 (Application 27614) of the Monterey Peninsula Water Management District (MPWMD). Decision 1632 found that the diversion season for junior applicants (Application 30215B is junior to Application 27614) will extend from January 1 through April 30 of each year. Therefore, if a permit is issued pursuant to Application 30215B it will have a restricted diversion season. Cal-Am requires an additional water supply, other than the limited quantity which may be available under Application 30215B, in order to divert water throughout the year.

Cal-Am response to condition 2(2):

Cal-Am is taking steps to identify the amount of tertiary treated wastewater which is available.

² Table 13 and condition 10 of Decision 1632 identify persons who may obtain a limited appropriative right which is senior in priority to Application 27614 of MPWMD. The decision states that all persons listed in Table 13 may seek a diversion season which extends throughout the year, except for Cal-Am. Cal-Am is required to submit evidence of water availability to determine the appropriate diversion season for the 2,964 afa which is identified in Table 13.

Division review:

Cal-Am should submit information on any program which it develops to utilize treated wastewater.

Cal-Am response to condition 2(3):

Cal-Am is actively working with MPWMD to obtain voter approval of the New Los Padres Dam Project in the November 7, 1995 ballot. In addition to this activity, Cal-Am intends to promote water conservation.

Division review:

On November 7, 1995, the voters rejected the bond measure for the New Los Padres Dam Project. Cal-Am has not indicated how it intends to develop a continuous water supply, given the results of the vote. The next quarterly report should identify all available options for developing a legal water supply, provide information on the feasibility of the options and provide a timeline for pursuing the available options. This information will be reviewed for compliance with condition (2) of the order.

Condition 3:

(a) Cal-Am shall develop and implement an urban water conservation plan. In addition, Cal-Am shall develop and implement a water conservation plan based upon best irrigation practices for all parcels with turf and crops of more than one-half acre...

(b) Urban and irrigation conservation measures shall remain in effect until Cal-Am ceases unlawful diversion from the Carmel River. Conservation measures required by this Order in combination with conservation measures required by the District shall have the goal of achieving 15 percent conservation in the 1996 water year and 20 percent conservation in each subsequent year...The base for measuring conservation savings shall be 14,106 afa...

Cal-Am response:

Cal-Am has had a conservation program in effect in its Monterey District since 1977 and will continue compliance with that program, in addition to meeting the requirements under MPWMD Ordinances 49 and 54 to eliminate "water waste."

Division review:

The 1995 water conservation recap indicates that Cal-Am expended approximately \$62,000 on water conservation programs during the peak drought years of 1990 and 1991, with expenditures on water conservation programs tapering off to \$17,500 in 1995. Cal-Am continues to implement its water conservation program through media advertising, handouts, contests, water quality brochures,

theater a water awareness committee and other measures. In Exhibit 12, page 5, Cal-Am estimates that the average residential customer will utilize 230 gallons per day in a normal water year. Page 12 of Exhibit 12 provides information on the penalty charges which are assessed if customers use an unreasonable, indiscriminate or excessive amount of water for two or more billing periods. The submittal provides a thorough review of the water conservation activities of Cal-Am. It does not appear, however, to provide information on water use for turf crops. This information should be submitted with the next quarterly report.

The urban and irrigation conservation measures are required to achieve compliance with the conservation goals established in condition 3(b). In the 1996 water year, Cal-Am is required to restrict total diversion from the Carmel River to no more than 11,990 af (11,990 af equals a 15 percent reduction from the base amount of 14,106 afa). In 1997 and subsequent water years, Cal-Am is required to restrict total diversion from the Carmel River to no more than 11,285 af (11,285 equals a 20 percent reduction from the base amount of 14,106 afa). Thus, a principal goal of the water conservation program is to limit water diversion to the identified amounts.

The Division has received information (copies attached) to indicate that water transfers from vacant parcels of land to parcels which will be developed as commercial properties are occurring. Also, it appears that certain home owners in the City of Pacific Grove are installing up to 11 shower heads³ in a single stall to boost the credits for future expansion for the purpose of developing their properties. These actions may be inconsistent with the requirements of Order 95-10. Cal-Am should provide documentation on: (1) whether these actions are occurring; (2) the number of times such actions have occurred recently; and, (3) whether such actions have resulted in increased use of water beyond the specified annual limitations or result in water use which exceeds reasonable per capita use pursuant to the urban water conservation plan requirement of condition (3) of the order.

Order Condition No. 4:

Cal-Am shall maximize production from the Seaside aquifer for the purpose of serving existing connections, honoring existing commitments (allocations), and to reduce diversions from the Carmel River to the greatest practicable extent. The long-term yield of the basin shall be maintained by using the practical rate of withdrawal method.

³ Information obtained from City of Pacific Grove building permit 92-0459, dated September 16, 1992 and transmitted to the Division via letter dated November 6, 1995.

Cal-Am Response:

Cal-Am produced 4,682 af in 1995 from the Seaside aquifer.

Division Review:

Cal-Am should submit additional information with the next quarterly report to document whether it has instituted a monitoring program to ascertain whether the long-term yield of the basin is being maintained. The monitoring program should be designed to provide information on both pumping levels and maintenance of the water quality objectives of the Basin Plan (including prevention of sea-water intrusion).

Order Condition No. 5:

Cal-Am shall satisfy the water demands of its customers by extracting water from its most downstream wells to the maximum practicable extent, without degrading water quality or significantly affecting the operation of other wells.

Cal-Am Response:

Cal-Am has been operating under a memo of agreement between Cal-Am, MPWMD and the Department of Fish and Game which is renewed each year. Under this agreement, Item 14, Cal-Am is maximizing its production from its lowermost wells.

Division Review:

The response is satisfactory. Cal-Am should submit a memo of agreement covering the 1996 calendar year with its next quarterly report.

Order Condition No. 6:

Cal-Am shall conduct a reconnaissance level study of the feasibility, benefits and costs of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plant... The results of the study and recommendations shall be provided to the District and DFG for comment.

Cal-Am Response:

The studies have been conducted. As soon as feasible each year, Cal-Am shuts off its Carmel Valley Filter Plant and produces water from its downstream wells.

Division Review:

Please provide a copy of the studies to the SWRCB, the District and DFG. The comments of the District and DFG regarding the study should be provided to the SWRCB with the next quarterly report.

Order Condition No. 7:

Cal-Am shall evaluate the feasibility of bypassing early storm runoff at Los Padres and San Clemente Dams to recharge the subterranean stream below San Clemente Dam in order to restore surface water flows in the river at an earlier date. The results of the study and recommendations shall be provided to the District and DFG for comment.

Cal-Am Response:

Cal-Am provided a description of its present operational program and the potential changes which it could make to meet condition 7 and concluded that the current method of operation today best meets the requirements of the order.

Division Review:

Condition 7 requires Cal-Am to consult with the District and DFG regarding operation of the reservoirs. The condition will not be satisfied until the required consultation is completed. Cal-Am should include the letters of consultation in the next quarterly report.

Order Condition No. 8:

Cal-Am shall conduct a study of the feasibility, benefits and costs of modifying critical stream reaches to facilitate the passage of fish. The study shall be designed and carried out in consultation with DFG and the District. The results of the study and recommendations shall be provided to the District and DFG for comment.

Cal-Am Response:

Cal-Am is working with DFG and the District to establish the criteria necessary to develop a Request for Proposal from qualified consultants to perform the necessary studies.

Division Review:

Cal-Am should continue with the tasks which it has outlined in its response. A timeline for completion of the study should be submitted with the next quarterly report.

Order Condition No. 9:

Due to the length of this condition, it is not reiterated herein. This condition specifies the timelines for production of the materials required by Conditions 6, 7 and 9.

Cal-Am Response:

Cal-Am has indicated the programs and studies it will undertake to meet the compliance dates.

Division Review:

Cal-Am should submit timelines for completion of the tasks required by Conditions 6, 7 and 8 with each quarterly report until the tasks are completed.

Order Condition No. 10:

Cal-Am shall remove the large rock immediately below the spillway of the los Padres Dam...

Cal-Am Response:

Cal-Am has contracted with DFG to remove the rock. The work was completed in August.

Division Review:

The response is satisfactory and no additional information is required in subsequent quarterly reports.

Order Condition No. 11:

Cal-Am shall be responsible for implementing all measures in the "Mitigation Program for the District's Water Allocation Program Environmental Impact Report" not implemented by the District after June 30, 1996."...

Cal-Am Response:

The District is presently implementing all measures required under the mitigation program. Cal-Am will continue to work with the District in this program area.

Division Review:

The response is satisfactory. The condition requires supplemental reports by Cal-Am at specified times. These reports will be reviewed, when they are submitted.

Order Condition No. 12:

Within 90 days of the date of this order, Cal-Am shall submit for the approval of the Chief, Division of Water Rights:

(a) a compliance plan detailing the specific actions which will be taken to comply with condition 2 and the dates by which those actions will be accomplished;

(b) An urban water conservation plan;

(c) An irrigation management plan.

Cal-Am Response:

We believe specific answers to all conditions of the order provides compliance for submission with the 90 days.

Division Review:

The Cal-Am responses do not include specific information to document how Cal-Am intends to restrict water diversion to comply with this condition. Further, Cal-Am has not yet provided information on the specific actions which it intends to take to comply with this condition. Information on the specific compliance actions which Cal-Am intends to take and a timeline for implementation of each action should be submitted with the next quarterly report.

Order Condition 13:

Cal-Am shall submit quarterly reports detailing its pumpage from the wells and compliance with the terms of Order 95-10.

Cal-Am Response:

Cal-Am submitted its first quarterly report dated October 3, 1995.

Division Review:

To date, Cal-Am has complied with condition 13. This condition requires that Cal-Am continue to submit quarterly reports for review by the Division.

Attachment

STATE WATER RESOURCES CONTROL BOARD

THE PAUL R. BONDERSON BUILDING
901 P STREET
SACRAMENTO, CA 95814

RECEIVED

Mailing Address
DIVISION OF WATER RIGHTS
P.O. BOX 2000, Sacramento, CA 95812-2000



(--6) 657-1359
FAX: 657-1485

DEC 28 1995

DECEMBER 26 1995 CAL-AM WATER CO.

California-American Water Company
Mr. Larry D. Foy
P.O. Box 951
Monterey, CA 93942-0951

COPY / REVIEW
Mgr.
Oper. Mgr.
Off. Mgr.
Comm. Dist. Mgr.
Exec. Comm. Spec.
Asst. Cust. Svc. Supt.
Water Qty. Supt.
Dist. Supt.
Prod. Supt.
Engineer
File

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) STATUS REPORT
REGARDING COMPLIANCE WITH STATE WATER RESOURCES CONTROL BOARD
(SWRCB) ORDER NO. WR 95-10--CARMEL RIVER IN MONTEREY COUNTY

Division of Water Rights (Division) staff has reviewed (copy enclosed) the October 3, 1995 status report by Cal-Am regarding compliance with the thirteen conditions of Order No. WR 95-10. Our review was deferred until after the November 7, 1995 election to determine whether the voters would approve the bond measure for the proposed New Los Padres Reservoir of the Monterey Peninsula Water Management District (District). The reservoir project is capable of providing an adequate water supply for the Monterey peninsula and, if Cal-Am purchased the water from the District pursuant to a contract, the project would have provided a legal basis of right for diversion by Cal-Am. The voters did not approve the bond measure for the reservoir.

The enclosed memorandum details the findings of our review of the Cal-Am compliance submittal. Based upon our review, it appears that a more accurate accounting of water is required in the next quarterly report. The report which was submitted includes a significant mathematical error. This issue is discussed on the first two pages of the Division staff memorandum. The error did not result in a violation of the requirements of Order WR 95-10. Division staff has also identified several other issues which should be addressed in the next quarterly report. The next report will be reviewed to determine whether Cal-Am has responded to the identified issues.

By letter dated November 22, 1995, you inquired whether it is acceptable to submit the records of Carmel River water diversion which are required pursuant to condition 13 of Order WR 95-10 as a 12-month rolling average on a monthly basis to the Division. Please note, condition 13 requires Cal-Am to submit the monthly pumping records on a quarterly basis to the Division. The proposed format is acceptable, provided that continuous monthly diversion data are submitted for the previous 12-month period with each quarterly report and the total pumpage for the water year is also submitted.

We appreciate your continuing cooperation in this matter. If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,



Edward C. Anton, Chief
Division of Water Rights

Enclosure

cc: (all w/enclosure)
Monterey Peninsula Water
Management District
Mr. William Hurst
187 El Dorado, Suite E
P.O. Box 85
Monterey, CA 93942-0085

Mr. Wesley Franklin
Executive Director
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

STATE WATER RESOURCES CONTROL BOARD

1000 J. BONDERSON BUILDING
 1100 REET
 SACRAMENTO, CA 95814

916) 657-1359
 FAX: 657-1485

Mailing Address
 DIVISION OF WATER RIGHTS
 P.O. BOX 2000, Sacramento, CA 95812-2000



RECEIVED

MAR 11 1996

In Reply Refer
 To: 333:KDM:262.0 (27-01) M.P.W.M.D.

MARCH 11 1996

California-American Water Company
 Mr. Larry D. Foy
 P.O. Box 951
 Monterey, CA 93942-0951

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) STATUS REPORT
 REGARDING COMPLIANCE WITH STATE WATER RESOURCES CONTROL BOARD
 (SWRCB) ORDER NO. WR 95-10--CARMEL RIVER IN MONTEREY COUNTY

Division of Water Rights (Division) staff has reviewed the January 25, 1996 status report by Cal-Am regarding compliance with the thirteen conditions of Order No. WR 95-10 (Order 95-10). The basic issue which Cal-Am must address is that it is required, pursuant to the terms of the order, to develop project(s) capable of providing an adequate water supply for the Monterey peninsula. The order requires Cal-Am to submit a compliance plan detailing the specific actions which will be taken. Those actions are to focus on the requirement that it diligently obtain appropriate permits for the water which it diverts from the Carmel River and/or obtains from other sources of supply and makes one-for-one reduction in its diversions from the Carmel River. The order also requires Cal-Am to document the dates by which those action will be accomplished.

The single most problematic element of the compliance submittal is that Cal-Am apparently intends to restudy all possible water supply projects in the basin. Instead, Cal-Am should be focusing on the most likely alternatives which have already been identified in the considerable environmental documentation produced by the Monterey Peninsula Water Management District (MPWMD). Cal-Am should then be determining which of those projects it wishes to implement. In its January 25 compliance submittal, Cal-Am states that it has formed an Alternate Water Supply Committee to brainstorm all possible water supply alternatives. The committee has developed 50 suggestions for further study. This appears to be a reiteration of work which has already been conducted by MPWMD.

Further, the January 25 submittal of Cal-Am includes the ballot measure information prepared by the League of Women Voters. This information describes the pros and cons of the New Los Padres Dam and provides very detailed information regarding the relative merits (and costs) of the New Los Padres Dam and the selected alternative projects involving desalination, retrofitting/conservation, reclamation, dredging of existing reservoirs and the no project alternative. Since extensive investigations into various water supply alternatives have already been conducted, the SWRCB will not consider the Cal-Am proposal to restudy the alternative projects as adequate compliance with the requirements of Order 95-10. A far more substantial response, detailing the project(s) which Cal-Am intends to develop and a timeline for development of those project(s) is required to be submitted with the next quarterly report.

If Cal-Am is unwilling to provide a detailed compliance plan, including a timeline for implementation, then the SWRCB may refer this matter to the Attorney General for appropriate action, pursuant to Condition 14 of Order 95-10.

If you need further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

ORIGINAL SIGNED BY

Edward C. Anton, Chief
Division of Water Rights

cc: National Marine Fisheries
Service
77 Sonoma Avenue, Room 325
Santa Rosa, CA 95404

Mr. Kris Lindstrom
P.O. Box 51008
Pacific Grove, CA 93950

Monterey Peninsula Water
Management District
Mr. Darby Fuerst
P.O. Box 85
Monterey, CA 93942-0085

Memorandum

262.0
(27-01)

To : Complaint File 262.0 (27-01)

Date: MARCH 11 1996

ORIGINAL SIGNED BY

From : Katherine Mrowka
Associate WRC Engineer
DIVISION OF WATER RIGHTS
STATE WATER RESOURCES CONTROL BOARD
901 P Street Sacramento, CA 95814
Mail Code G-8

Subject: EVALUATION OF CALIFORNIA-AMERICAN WATER COMPANY'S (CAL-AM)
COMPLIANCE WITH THE CONDITIONS OF ORDER WR 95-10--CARMEL RIVER IN
MONTEREY COUNTY

By letter dated January 25, 1996, Cal-Am submitted the quarterly report documenting its compliance with the 13 conditions of Order WR 95-10 (Order 95-10). The submittal has been reviewed by Division of Water Rights (Division) staff. The results of that review are documented below. Cal-Am should address the questions listed below in its next quarterly compliance report.

Order Condition No. 1:

Cal-Am shall forthwith cease and desist from diverting any water in excess of 14,106 afa from the Carmel River, until unlawful diversions from the Carmel River are ended.

Analysis of Cal-Am Compliance Submittal:

Cal-Am provided records to document that it produced a total of 10,035 afa for the 1994-95 water year. The Cal-Am documentation lists the wells which are included in the production totals. The documentation does not mention the Scarlett 8 and Stanton wells. Are these wells still in production? If so, why have the production figures from these wells been omitted from the compliance report?

The available data indicates that Cal-Am operated within the production cap specified in Order 95-10 for the 1994-95 water year.

2-29-96

Order Condition No. 2:

Cal-Am shall diligently implement one or more of the following actions to terminate its unlawful diversions from the Carmel River: (1) obtain appropriate permits for water being unlawfully diverted from the Carmel River, (2) obtain water from other sources of supply and make one-for-one reduction in unlawful diversions from the Carmel River, provided that water pumped from the Seaside aquifer shall be governed by Condition 4 of this Order not this condition and/or (3) contract with another agency having appropriate rights to divert and use water from the Carmel River.

Analysis of Cal-Am Compliance Submittal:

Cal-Am's January 24, 1996 response indicates that on January 8, 1996, Cal-Am requested that Monterey Peninsula Water Management District (MPWMD) transfer the permits for the New Los Padres Reservoir Project to Cal-Am. The submittal does not indicate whether MPWMD responded favorably to the request. Cal-Am indicates, however, that it has formed an Alternate Water Supply Committee which has developed 50 suggestions for water supply projects. These suggestions will be the subject of future studies. This appears to be a reiteration of work which has already been conducted by MPWMD.

Further, the January 25 submittal of Cal-Am includes the ballot measure information prepared by the League of Women Voters. This information describes the pros and cons of the New Los Padres Dam and provides very detailed information regarding the relative merits (and costs) of the New Los Padres Dam and the selected alternative projects involving desalination, retrofitting/conservation, reclamation, dredging of existing reservoirs and the no project alternative. Since extensive investigations into various water supply alternatives have already been conducted, Division staff maintains that the Cal-Am proposal to restudy the alternative projects does not adequately comply with the requirements of Order 95-10. A far more substantial response, detailing the project(s) which Cal-Am intends to develop and a timeline for development of those project(s) should be submitted with the next quarterly report.

Order Condition No. 3:

(a) Cal-Am shall develop and implement an urban water conservation plan. In addition, Cal-Am shall develop and implement a water conservation plan based upon best irrigation practices for all parcels with turf and crops of more than one-half acre...

(b) Urban and irrigation conservation measures shall remain in effect until Cal-Am ceases unlawful diversion from the Carmel River...

Analysis of Cal-Am Compliance Submittal:

The Division staff review of compliance with Condition 3(a) indicates the following. In the October 3, 1995 Cal-Am compliance submittal, Cal-Am provided information regarding its urban water conservation program. Cal-Am did not, however, submit information regarding irrigation conservation practices. Division staff requested that Cal-Am submit this information with its January 1996 compliance submittal. Cal-Am's January 24, 1996 compliance submittal states that Cal-Am does not supply any water to agriculture. Cal-Am does, however, supply water to three golf courses. Cal-Am will offer a water audit to its 500 highest water users, including the golf courses. Condition 3 of Order 95-10 states that Cal-Am shall develop and implement a water conservation plan. The water audit can be a valuable tool in developing a water conservation plan. A proposed audit, however, does not fully comply with the requirements of Condition 3. Cal-Am should proceed to develop and implement a water conservation plan for all parcels with turf and crops of more than one-half acre. The plan should include all residences which have more than one-half acre of irrigated area.

The Cal-Am response regarding Condition 3(b) is adequate. Each quarterly compliance report should continue to document Cal-Am's compliance with this condition.

Order Condition No. 4:

Cal-Am shall maximize production from the Seaside aquifer...The long-term yield of the basin shall be maintained using the practical rate of withdrawal method.

Analysis of Cal-Am Compliance Submittal:

Cal-Am has not yet provided information to document that it has instituted a monitoring program to ascertain whether the long-term yield of the basin is being maintained. The monitoring program should be designed to provide information on both pumping levels and maintenance of the water quality objectives of the Basin Plan (including prevention of sea-water intrusion). Cal-Am indicates that the monitoring program documentation should be available by the third quarter of 1996.

Order Condition No. 5:

Cal-Am shall satisfy the water demands of its customers by extracting water from its most downstream wells to the maximum practicable extent, without degrading water quality or significantly affecting the operation of other wells.

Analysis of Cal-Am Compliance Submittal:

Cal-Am has indicated that it is operating under a memorandum of agreement between Cal-Am, MPWMD and the Department of Fish and Game that is renewed each year. The 1996 agreement will be developed in the April-May timeframe and provided to the SWRCB after it is executed.

Order Condition No. 6:

Cal-Am shall conduct a reconnaissance level study of the feasibility... of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plan...

Analysis of Cal-Am Compliance Submittal:

Cal-Am states that it will submit the study within the twelve months specified in Condition 9 of Order WR 95-10.

Order Condition No. 7:

Cal-Am shall evaluate the feasibility of bypassing early storm runoff at Los Padres and San Clemente Dams to recharge the subterranean stream below San Clemente Dam in order to restore surface water flows in the river at an earlier date. The results of the study and recommendations shall be provided to the District and DFG for comment.

Analysis of Cal-Am Compliance Submittal:

Cal-Am's response indicates that meetings were held with DFG and MPWMD to determine the criteria necessary to comply with this condition. The DFG has provided a three-point program to consider and MPWMD has agreed to assist Cal-Am in developing a report and/or computer model for future operation. Condition 9 of Order 95-10 requires Cal-Am to complete the evaluation of Condition 7 by December 6, 1995. It is apparent that Cal-Am

has missed this deadline; however, the response indicates that satisfactory progress is being made in developing the study. A completed study should be submitted with the next quarterly compliance report.

Order Condition No. 8:

Cal-Am shall conduct a study of the feasibility, benefits, and costs of modifying critical stream reaches to facilitate the passage of fish. The study shall be designed and carried out in consultation with DFG and the District...

Analysis of Cal-Am Compliance Submittal:

Division staff notes that the study required by Condition 8 must be completed by July 6, 1996, unless the Chief, Division of Water Rights extends the time for performing the study upon making a finding that adequate flows were not available to perform the study. Cal-Am has provided documentation that the necessary consultations with DFG and MPWMD are being conducted and that it intends to retain a consultant to conduct the actual study. Cal-Am has not yet provided documentation, however, to identify whether it will complete its work within the time requirements of Order 95-10. Cal-Am should provide this information.

Order Condition No. 9:

Due to the length of this condition, it is not reiterated herein. This condition specifies the timelines for production of the materials required by Conditions 6, 7 and 9.

Analysis of Cal-Am Compliance Submittal:

Cal-Am should submit timelines for completion of the tasks required by Conditions 6, 7 and 8 with each quarterly report until the tasks are completed.

Order Condition No. 10:

Analysis of Cal-Am Compliance Submittal:

This condition has previously been satisfied and no additional information is required in subsequent quarterly reports.

Order Condition No. 11:

Cal-Am shall be responsible for implementing all measures in the "Mitigation Program for the District's Water Allocation Program Environmental Impact Report" not implemented by the District after June 30, 1996..."

Analysis of Cal-Am Compliance Submittal:

The District has been implementing all measures required under the mitigation program and is in the process of developing the budget for implementation of the next five-year interim relief program. Cal-Am should submit information on this item with each quarterly report.

Order Condition No. 12:

Within 90 days of the date of this order, Cal-Am shall submit for the approval of the Chief, division of Water Rights:

- (a) A compliance plan detailing the specific actions which will be taken to comply with condition 2 and the dates by which those actions will be accomplished;*
- (b) An urban water conservation plan;*
- (c) An irrigation management plan.*

Analysis of Cal-Am Compliance Submittal:

Cal-Am has not yet provided information on the specific actions which it intends to take to comply with this condition. By letter dated December 26, 1995, Cal-Am was requested to supply this information. Cal-Am provided no response whatsoever to document that it has complied with condition 13 in its January 25, 1996 quarterly compliance submittal. Division staff maintains that failure by Cal-Am to identify the specific actions which it will undertake to restrict its diversions from the Carmel River to only the quantity of water to which it has a legal right may constitute failure to comply with the provisions of Order 95-10.

Order Condition No. 13:

Cal-Am shall submit quarterly reports detailing its pumpage from the wells and compliance with the terms of Order 95-10.

Complaint File 262.0 (27-01) -7-

Analysis of Cal-Am Compliance Submittal:

Cal-Am submitted its quarterly report on January 25, 1996. This report documents compliance with many of the provisions of Order 95-10. It does not, however, document compliance with all of the provisions of the order. The areas of concern are identified above.

KDMRowka\lbitnoff 2/29/96
a:\kdm\96-09.mem
Control No. 96-09



C EPA

State Water
Resources
Control Board

Division of
Water Rights

Mailing Address:
P.O. Box 2000
Sacramento, CA
95812-2000

901 P Street
Sacramento, CA
95814
(916) 657-1359
FAX (916) 657-1485

RECEIVED

SEP 16 1996

CAL-AM WATER CO.

~~SEP 12 1986~~

Mr. Larry D. Foy
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE
WITH STATE WATER RESOURCES CONTROL BOARD (SWRCB)
ORDER WR NO. 95-10--CARMEL RIVER IN MONTEREY COUNTY
FILE 262.0(27-03)

By letter dated August 6, 1996, the Carmel River Steelhead Association (CRSA) provided information on the status of Cal-Am's compliance with Order WR No. 95-10. In the opinion of CRSA, Cal-Am has not conducted a timely repair of its pumps in the lower Carmel River. Therefore, CRSA asserts that Cal-Am may not be complying with condition 5 of Order WR No. 95-10 which requires Cal-Am to utilize its most downstream diversion facilities prior to utilizing other diversion works.

In order to address compliance with condition 5, Cal-Am is requested to submit detailed well production reports broken down by the subaquifer (for example, data for production from subaquifer 1, etc.) with its next quarterly compliance submittal and all future compliance submittals. An explanation of steps taken to comply, as well as barriers to compliance, with condition 5 should also be provided if appropriate.

Condition 10 of Order WR 95-10 requires Cal-Am to remove the large rock below Los Padres Dam. CRSA asserts that Cal-Am did not do an adequate job of removing the large rock. It is our understanding that Cal-Am contracted with the Department of Fish and Game (DFG) to remove this rock. Is DFG satisfied with the results of this removal? You are requested to provide a copy of any letters which you have received from DFG regarding the results of the rock removal project. Cal-Am is also requested to submit photograph(s) showing the present status of this site. If possible, an older photograph showing the large rock is also requested to be submitted. The photographs should be submitted with the next quarterly compliance submittal.



Pete Wilson
Governor



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Larry D. Foy

-2-

SEP 12 1996

If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,



Edward C. Anton, Chief
Division of Water Rights

cc: Mr. Clive R. Sanders
Carmel River Steelhead Association
P.O. Box 1183
Monterey, CA 93940

Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.



EPA

State Water Resources Control Board

Division of Water Rights

Mailing Address: P.O. Box 2000 Sacramento, CA 95812-2000

901 P Street Sacramento, CA 95814 (916) 657-1359 FAX (916) 657-1485

RECEIVED

SEP 26 1996

SEP 20 1996

CAL-AM WATER CO.

Mr. Larry D. Foy California American Water Company P.O. Box 951 Monterey, CA 93942-0951

cc Jones Gribbs Weiss Hogg Tracy Kucera



Pete Wilson Governor

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE WITH STATE WATER RESOURCES CONTROL BOARD (SWRCB) ORDER WR 95-10

Division of Water Rights (Division) staff has reviewed the May 29, 1996 and August 7, 1996 quarterly compliance submittals which Cal-Am provided to the Division pursuant to the requirements of Order WR 95-10. The results of that review are summarized in the enclosed memorandum.

Division staff recommends that Cal-Am provide monthly data on water production from the Carmel River system from now through the end of the 1996 water year, in addition to the quarterly compliance reports. This information is needed because Cal-Am is expected to reach the limitation on pumping established in Order WR 95-10 for the 1996 water year. Submittal of monthly data will enable the SWRCB to keep accurate records regarding water diversion to ensure that Cal-Am is in compliance with the terms of the order. Cal-Am is requested to submit its records of water diversion and use by October 15, 1996.

If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

Edward C. Anton

Edward C. Anton, Chief Division of Water Rights

Enclosure

cc: (all w/enclosure) State Board Members

Walt Pettit Executive Director



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Larry D. Foy

-2-

SEP 20 1996

Mr. Darby Fuerst
Monterey Peninsula Water Management
District
P.O. Box 85
Monterey, CA 93942-0085

Mr. Kris Lindstrom
P.O. Box 51008
Pacific Grove, CA 93950

National Marine Fisheries
Service
77 Sonoma Avenue, Room 325
Santa Rosa, CA 95404

Mr. Clive R. Sanders
Carmel River Steelhead Association
P.O. Box 1183
Monterey, CA 93940



MEMORANDUM



Pete Wilson
Governor

EPA
State Water
Resources
Control Board

CAL-AM WATER CO.

to: Complaint File 262.0 (27-03)

901 P Street
Sacramento, CA
95814
(916) 657-1951
FAX (916) 657-1485

Katherine Mrowka

FROM: Katherine Mrowka
Associate WRC Engineer
DIVISION OF WATER RIGHTS

DATE: SEP 20 1996

SUBJECT: COMPLIANCE WITH ORDER WR 95-10--CARMEL RIVER IN
MONTEREY COUNTY

Division of Water Rights (Division) staff has reviewed the May 29, 1996 and August 7, 1996 quarterly compliance submittals which Cal-Am provided to the Division pursuant to the requirements of Order WR 95-10. The results of that review are summarized below.

Condition 1:

The maximum quantity of water which can be diverted from the Carmel River is governed by the provisions of condition 3(b) at this time, not condition 1.

Condition 2:

Cal-Am has documented the efforts which it is making in order to comply with this requirement. The Division should continue monitoring Cal-Am's progress regarding compliance with this requirement. The Cal-Am submittal indicates that Cal-Am may develop a project to transfer winter flows from the Carmel River to the Seaside aquifer, where the water will be stored until it is used. An appropriate water right is required prior to initiation of this program.

Condition 3(a):

Cal-Am submitted a copy of the "Monterey Division Urban Water Management and Water Shortage Contingency Plan 1995-2000" which it developed in response to this requirement. The program described in the report was also designed to comply with legislation AB 892, SB 1017 and AB 2853. It also serves as Cal-Am's compliance document pursuant to the terms of the memorandum of understanding regarding urban water conservation in California, to which the Monterey Division is a party. The document was filed with the California Public Utilities Commission, the Office of Water Conservation in the Department of Water Resources (DWR), the



SEP 20 1996

Monterey Peninsula Water Management District and the SWRCB. Based upon a limited review of the plan, it appears that the plan may be adequate to meet the requirements of condition 3 because it entails both urban water conservation and information on water use for golf courses and other irrigated areas. If DWR determines that the plan is adequate to meet its requirements, the Division should issue a finding regarding compliance with condition 3(a).

Condition 3(b):

Condition 3(b) limits the quantity of water which Cal-Am can pump from the Carmel River system to 11,990 acre-feet (af) during the 1996 water year and 11,285 af during subsequent water years.

It appears that Cal-Am is presently in compliance with this requirement. A primary issue of concern, however, is the net increase in the quantity of water which Cal-Am is pumping from the Carmel River system. The total quantity of water pumped from the system, including pumping at San Clemente Dam, Carmel Valley wells and Water West wells, was 11,721 acre-feet (af) for the twelve-month period beginning on August 1, 1995 and ending on July 31, 1996. As noted above, compliance with condition 3(b) is based upon the total quantity of water diverted during the water year. The water year begins on October 1 of each year and ends on September 30 of the following calendar year. Therefore, the data for the past 12-month period does not form the basis for determining compliance with condition 3(b) of Order WR 95-10.

Nonetheless, the submittal indicates that Cal-Am has increased its diversion from the Carmel River. Cal-Am diverted a greater amount of water from the Carmel River during May, June and July of 1996 than it diverted during the same period in 1995. If the increased rate of diversion is sustained through the remainder of the 1996 water year, Cal-Am may not achieve compliance with condition 3(b) of Order WR 95-10. Cal-Am should take all necessary steps to ensure compliance with the terms of the order. To ensure that Cal-Am is in compliance with this requirement, Cal-Am should promptly submit its pumping data for the Carmel River system for the water year. In order to provide adequate time to compile the monthly data, the submittal should be made by October 15, 1996. This will provide the information needed for the Division to take timely action, should Cal-Am fail to comply with condition 3(b).

SEP 20 1996

Condition 4:

The August 7, 1996 submittal indicates that Cal-Am has increased its use of the Seaside groundwater aquifer. Cal-Am has not yet submitted information to document that it has established an ongoing basin monitoring program and taken steps to ensure that the long-term yield of the basin is being maintained. This documentation is requested to be submitted with the next quarterly report.

Condition 5:

Cal-Am submitted a Memorandum of Understanding (MOU) dated June 18, 1996 between Cal-Am, the Monterey Peninsula Water Management District, and the Department of Fish and Game which specifies the flow release and flow maintenance requirements for the Carmel River through December 31, 1996. The MOU requires Cal-Am to maintain a minimum flow of 8.0 cubic feet per second (cfs) at the Sleepy Hollow Weir from August 1 through September 30, 1996 and 7.5 cfs from October 1 through December 31, 1996. The MOU also requires Cal-Am to operate the Carmel Valley Filter Plant to produce no more than 8.0 cfs in June and 4.0 cfs from July through December from San Clemente Reservoir as measured by a 30-day mean. Furthermore, the MOU states that Cal-Am shall make a reasonable effort to operate the lower Carmel Valley production wells in the sequence from the lowermost well and progress upstream as wells are needed and available for production. Based upon the provisions of the MOU, Cal-Am is presently in compliance with condition 5.

Condition 6:

Condition 6 requires Cal-Am to conduct a reconnaissance level study of the feasibility, benefits and costs of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plant. The August 7, 1996 Cal-Am submittal documents that on July 26, 1996 Cal-Am entered into a contract with Fugro West, Inc. to conduct the study. A copy of the proposed scope of the study was provided to the Division.

Condition 7:

This condition requires Cal-Am to study the feasibility of bypassing early storm runoff at Los Padres and San Clemente Dams to recharge the subterranean stream below San Clemente Dam in order to restore surface water flows in the river at an earlier date. In order to meet this requirement, Cal-Am provided documentation that it has entered into an agreement with the MPWMD to evaluate the feasibility of bypassing early storm runoff. A final report is expected to be completed by September 30, 1996.

SEP 20 1996

Condition 8:

In order to comply with this requirement, Cal-Am has provided documentation that it has entered into an agreement with MPWMD for their fish biologist to conduct a study of the feasibility, benefits and cost of modifying critical riffle reaches to facilitate the passage of fish. The study consists of seven tasks to be completed at different phases, with the final report to be completed June 30, 1997.

Condition 9:

Condition 9 established a timeline for Cal-Am to complete the studies identified in conditions 6, 7 and 8. Cal-Am did not meet the requirements of this condition. Nonetheless, Cal-Am has documented that it has budgeted the funds to complete these tasks and has entered into agreements with the appropriate agencies and/or professionals for preparation of the required studies. Therefore, Division staff maintains that adequate progress is being made pursuant to conditions 6, 7, 8 and 9.

Condition 10:

Cal-Am is no longer required to submit information regarding compliance with condition 10, because it documented that rock removal occurred. The Division has received recent correspondence questioning the efficacy of the rock removal program. In order to address this inquiry, the Division is requesting Cal-Am to submit additional information. The request for additional information is being handled separately from the quarterly compliance submittal.

Condition 11:

On June 18, 1996, MPWMD advised the SWRCB of its intent to continue the "Mitigation Program for the District's Water Allocation Program Environmental Impact Report" for the fiscal years 1997 through 2001. Further action may not be required pursuant to this condition.

Condition 12(a):

Cal-Am has not fully complied with the submittal requirements of condition 12(a). In order to fully comply with this condition, Cal-Am must document the steps which it intends to take to obtain a legal supply of water. The information submitted to date documents the planning level activities which Cal-Am has engaged in. Cal-Am will not be deemed to have fully complied with this condition until it identifies the specific projects which it intends to complete to obtain a legal water supply, and documents that it has budgeted the funds for the identified projects.

SEP 20 1996

Condition 12(b) and 12(c):

Cal-Am submitted the required information on August 8, 1996.

Condition 13:

Cal-Am is presently in compliance with this condition.



Cal/EPA

State Water Resources Control Board

901 P Street Sacramento, CA 95814 (916) 657-1359 FAX (916) 657-1485

MAY 15 1997

COPY / REVIEW

Post-It® Fax Note# 7671	Date	# of pages 2
To <i>[Signature]</i>	From <i>[Signature]</i>	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	



Pete Wilson Governor

Mr. Larry D. Foy California American Water Company P.O. Box 951 Monterey, CA 93942-0951

- Engineer
- [Signature]* FAX
- [Signature]*
- File

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE WITH STATE WATER RESOURCES CONTROL BOARD ORDER (SWRCB) ORDER WR 95-10--262.0 (27-01)

Division of Water Rights (Division) staff has reviewed the quarterly compliance submittals for the periods August 1, 1996 through January 31, 1997 which Cal-Am submitted to the Division pursuant to the requirements of Order WR 95-10. The results of that review will be provided to Cal-Am under separate cover.

It appears that Cal-Am will not be able to implement adequate conservation measures to achieve the additional five percent water conservation required by the order for the 1996-97 water year. Order WR 95-10 sets the 1996-97 water year diversion limitation at 11,285 af. The records which Cal-Am has submitted for the 1996-97 water year to date (October 1996 through March 1997) document that Cal-Am diverted 5,431 acre-feet (af) from the Carmel River during this six-month period. This exceeds the total diversions during the same six-month period in the 1995-96 water year. Furthermore, even if Cal-Am limits its diversions throughout the remainder of the water year to the quantity of water which it utilized during the same period of the previous water year, Cal-Am will greatly exceed the diversion limit cap (see calculations in Appendix 1).

Based on our calculations, Cal-Am has 5,854 af remaining in its pumping limitation to utilize during the six-months remaining in the 1996-97 water year (which equals 976 af per month). To meet this limit, Cal-Am must reduce pumping by 19 percent from the amount pumped in the same time period last year. Cal-Am is directed to submit a pumping schedule for the remainder of the water year which sets forth the quantity of water which Cal-Am intends to divert monthly in order to comply with the diversion limitation cap established in Order WR 95-10 along with an explanation of the measures it intends to implement to meet the 11,285 af pumping limitation. The schedule and plan are due within



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Larry D. Foy

-2-

MAY 15 1997

two weeks of the date of this letter. Failure to timely submit and adhere to the schedule may result in referral of this matter to the Attorney General's Office requesting injunctive relief imposing a pumping schedule.

If you require further assistance, please contact Mr. Edward C. Anton, Chief of the Division of Water Rights at (916) 657-1359.

Sincerely,


Walt Pettit
Executive Director

Enclosure (Appendix 1)

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Monterey County Board of Supervisors
P.O. Box 1729
Salinas, CA 93902

Ms. Ellyn S. Levinson
Office of the Attorney General
Department of Justice
50 Fremont Street, Suite 300
San Francisco, CA 94105



APPENDIX 1

By letter dated April 14, 1997, Cal-Am documented that it is diverting more water from the Carmel River this water year than during the previous water year. Water diversion for the 1996-97 water year can be estimated by adding the six-months of available data for the 1996-97 water year (October 1, 1996 through March 31, 1997) to the diversion records for the period from April 1 through September 30, 1996. This yields a projected total diversion of 12,971 af for the 1996-97 water year (5,431 af for October 1, 1996 through March 31, 1997 plus 7,228 af for April 1 through September 30, 1996 equals 12,659 af). 7,228 af is the quantity which Cal-Am diverted from the Carmel River, after downward data adjustment by Cal-Am.

Cal-Am submitted data to document the quantity of water it diverted from the Carmel River during the 1995-96 water year. At the end of the water year, Cal-Am stated that its Cypress Well meter was reading too high and readjusted its diversion records for Cypress Well downward by 20 percent for the entire water year. Thus, Cal-Am deducted 482.6 af from its previously reported diversion quantities.

In addition to this adjustment, Cal-Am readjusted its records downward to account for 184 af which Cal-Am states was lost through leaking valves at the Begonia Iron Removal Plant after it was diverted from the Carmel River. The validity of the downward data adjustments is not analyzed herein. All technical analysis is contained in the forthcoming staff analysis of the compliance submittals.





Cal/EPA

State Water Resources Control Board

201 P Street
Sacramento, CA
95814
(916) 657-1359
FAX (916) 657-1485

SURNAME/FILES

(27-01)



Pete Wilson
Governor

MAY 15 1997

Mr. Larry D. Foy
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE
WITH STATE WATER RESOURCES CONTROL BOARD ORDER (SWRCB)
ORDER WR 95-10--262.0 (27-01)

Division of Water Rights (Division) staff has reviewed the quarterly compliance submittals for the periods August 1, 1996 through January 31, 1997 which Cal-Am submitted to the Division pursuant to the requirements of Order WR 95-10. The results of that review will be provided to Cal-Am under separate cover.

It appears that Cal-Am will not be able to implement adequate conservation measures to achieve the additional five percent water conservation required by the order for the 1996-97 water year. Order WR 95-10 sets the 1996-97 water year diversion limitation at 11,285 af. The records which Cal-Am has submitted for the 1996-97 water year to date (October 1996 through March 1997) document that Cal-Am diverted 5,431 acre-feet (af) from the Carmel River during this six-month period. This exceeds the total diversions during the same six-month period in the 1995-96 water year. Furthermore, even if Cal-Am limits its diversions throughout the remainder of the water year to the quantity of water which it utilized during the same period of the previous water year, Cal-Am will greatly exceed the diversion limit cap (see calculations in Appendix 1).

Based on our calculations, Cal-Am has 5,854 af remaining in its pumping limitation to utilize during the six-months remaining in the 1996-97 water year (which equals 976 af per month). To meet this limit, Cal-Am must reduce pumping by 19 percent from the amount pumped in the same time period last year. Cal-Am is directed to submit a pumping schedule for the remainder of the water year which sets forth the quantity of water which Cal-Am intends to divert monthly in order to comply with the diversion limitation cap established in Order WR 95-10 along with an explanation of the measures it intends to implement to meet the 11,285 af pumping limitation. The schedule and plan are due within

John J. ... 5/16/97

...

Mr. Larry D. Foy

-2-

MAY 25 1997

two weeks of the date of this letter. Failure to timely submit and adhere to the schedule may result in referral of this matter to the Attorney General's Office requesting injunctive relief imposing a pumping schedule.

If you require further assistance, please contact Mr. Edward C. Anton, Chief of the Division of Water Rights at (916) 657-1359.

Sincerely,

Original Signed By:

Walt Pettit
Executive Director

Enclosure (Appendix 1)

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Monterey County Board of Supervisors
P.O. Box 1729
Salinas, CA 93902

Ms. Ellyn S. Levinson
Office of the Attorney General
Department of Justice
50 Fremont Street, Suite 300
San Francisco, CA 94105

bcc: MGT, SRH

KDM\jguro
d:\kathy\comp.2\5\5\97

APPENDIX 1

By letter dated April 14, 1997, Cal-Am documented that it is diverting more water from the Carmel River this water year than during the previous water year. Water diversion for the 1996-97 water year can be estimated by adding the six-months of available data for the 1996-97 water year (October 1, 1996 through March 31, 1997) to the diversion records for the period from April 1 through September 30, 1996. This yields a projected total diversion of 12,971 af for the 1996-97 water year (5,431 af for October 1, 1996 through March 31, 1997 plus 7,228 af for April 1 through September 30, 1996 equals 12,659 af). 7,228 af is the quantity which Cal-Am diverted from the Carmel River, after downward data adjustment by Cal-Am.

Cal-Am submitted data to document the quantity of water it diverted from the Carmel River during the 1995-96 water year. At the end of the water year, Cal-Am stated that its Cypress Well meter was reading too high and readjusted its diversion records for Cypress Well downward by 20 percent for the entire water year. Thus, Cal-Am deducted 482.6 af from its previously reported diversion quantities.

In addition to this adjustment, Cal-Am readjusted its records downward to account for 184 af which Cal-Am states was lost through leaking valves at the Begonia Iron Removal Plant after it was diverted from the Carmel River. The validity of the downward data adjustments is not analyzed herein. All technical analysis is contained in the forthcoming staff analysis of the compliance submittals.



Mr. Larry D. Foy
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE WITH STATE
WATER RESOURCES CONTROL BOARD ORDER (SWRCB) ORDER WR 95-10--262.0
(27-01)

Division of Water Rights (Division) staff has reviewed the quarterly compliance submittals for the periods August 1, 1996 through January 31, 1997 which Cal-Am submitted to the Division pursuant to the requirements of Order WR 95-10. The results of that review will be provided to Cal-Am under separate cover.

It appears that Cal-Am will not be able to implement adequate conservation measures to achieve the additional five percent water conservation required by the order for the 1996-97 water year. Order WR 95-10 sets the 1996-97 water year diversion limitation at 11,285 af. The records which Cal-Am has submitted for the 1996-97 water year to date (October 1996 through March 1997) document that Cal-Am diverted 5,431 acre-feet (af) from the Carmel River during this six-month period. This exceeds the total diversions during the same six-month period in the 1995-96 water year. Furthermore, even if Cal-Am limits its diversions throughout the remainder of the water year to the quantity of water which it utilized during the same period of the previous water year, Cal-Am will greatly exceed the diversion limit cap¹.

¹ By letter dated April 14, 1997, Cal-Am documented that it is diverting more water from the Carmel River this water year than during the previous water year. Water diversion for the 1996-97 water year can be estimated by adding the six-months of available data for the 1996-97 water year (October 1, 1996 through March 31, 1997) to the diversion records for the period from April 1 through September 30, 1996. This yields a projected total diversion of 12,971 af for the 1996-97 water year (5,431 af for October 1, 1996 through March 31, 1997 plus 7,540 af for April 1 through September 30, 1996 equals 12,971 af). 7,540 af is the quantity which Cal-Am diverted from the Carmel River, prior to downward data adjustment by Cal-Am.

Cal-Am submitted data to document the quantity of water it diverted from the Carmel River during the 1995-96 water year. At the end of the water year, Cal-Am stated that its Cypress Well meter was reading too high and readjusted its diversion records for Cypress Well downward by 20 percent for the entire water year. Thus, Cal-Am deducted 482.6 af from its previously reported diversion quantities.

In addition to this adjustment, Cal-Am readjusted its records downward to account for 184 af which Cal-Am states was lost through leaking valves at the Begonia Iron Removal Plant after it was diverted from the Carmel River.

Jmc
5/15/97
OJ
5/15
Larry - Please check my #'s.
I had to re-do all of
them. Footnote I revised
to refer to incoming letter
Kdm

and attached
*on **
Based upon our calculations, Cal-Am has 5,854 af remaining in its pumping limitation to utilize during the six-months remaining in the 1996-97 water year (which equals 976 af per month). To meet this limit, Cal-Am must reduce pumping by 22 percent from the amount pumped in the same time period last year. Cal-Am is directed to submit a pumping schedule for the remainder of the water year which sets forth the quantity of water which Cal-Am intends to divert monthly in order to comply with the diversion limitation cap established in Order WR 95-10 along with an explanation of the measures it intends to implement to meet the 11,285 af pumping limitation. The schedule and plan are due within two weeks of the date of this letter. Failure to timely submit the schedule ~~will~~ result in referral of this matter to the Attorney General's Office requesting injunctive relief imposing a pumping schedule.

handy
If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

Edward C. Anton, Chief
Division of Water Rights

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Monterey County Board of Supervisors
P.O. Box 1729
Salinas, CA 93902

Ms. Ellyn S. Levinson
Office of the Attorney General
Department of Justice
50 Fremont Street, Suite 300
San Francisco, CA 94105

bcc: MGT, SRH



EPA

State Water Resources Control Board

Division of Water Rights

Mailing Address: P.O. Box 2000 Sacramento, CA 95812-2000

301 P Street Sacramento, CA 95814 (916) 657-1359 FAX (916) 657-1485

APRIL 17 1998

California-American Water Company Mr. Larry D. Foy P.O. Box 951 Monterey, CA 93942-0951

262.0 (27-01) SURNAME FILES Pete Wilson Governor

Dear Mr. Foy:

COMPLIANCE WITH ORDER WR 95-10 - CARMEL RIVER IN MONTEREY COUNTY - 262.0 (27-01)

By letter dated February 18, 1998, Cal-Am submitted its quarterly compliance report for the period November 1, 1997 through January 31, 1998. The Division of Water Rights (Division) staff has reviewed the submittal. In response 3(a), you provided information on the technical review of the urban water conservation plan that Cal-Am submitted to the State Water Resources Control Board (SWRCB). When the plan was submitted to the SWRCB, we asked that you submit the plan to the Department of Water Resources (DWR) for review pursuant to the Urban Water Management Planning Act. The comments in this section are credited to the SWRCB. We note, however, that they are actually the comments from Mr. Ed Craddock, Chief of the Water Conservation Office of DWR.

In its February 18 submittal, Cal-Am states that it does not plan to respond to the DWR comments at this time. Cal-Am will address the DWR comments after the responses to the Supplemental Environmental Impact Report (SEIR) on the Carmel River Reservoir Project are received, and Cal-Am determines the compliance and mitigations that will be imposed as part of the permits issued by the SWRCB, the Army Corps of Engineers and the Public Utilities Commission (PUC) hearings. The PUC hearing will not commence until the SEIR is completed. The hearing process, including issuance of a PUC determination, may take more than a year. Thus, Cal-Am is seeking to delay its response to DWR by a year or more. DWR's comments relate only to specific water conservation issues, not to general environment concerns. Therefore, Cal-Am should respond expeditiously to the issues raised by DWR and not link the timing of this response to other review processes.

Order WR 95-10 states that Cal-Am shall develop and implement an urban water conservation plan. The water conservation plan was to have been submitted to the Division by October 4, 1995 (Order WR 95-10, condition 12). The order clearly envisioned implementation of an urban water conservation plan in an expeditious manner, in order to meet the 11,285 acre-feet per annum (afa) water conservation goal. Thus, the Division requests that Cal-Am complete its urban water conservation plan by addressing the issues identified by DWR. Upon completion of this task, the Division will assess the adequacy of both the urban and irrigation water conservation measures. The Division will expect a progress report on this topic with the next quarterly compliance submittal.

bl. 4-13-98 | Allaway | Barman

APRIL 17 1998

California-American Water Company

-2-

Item 3(b) requires compliance with the 11,285 afa water conservation goal for the Carmel River. Cal-Am also diverts 4,000 afa from the Seaside groundwater basin, for a combined diversion of 15,285 afa.

In the quarterly submittal, Cal-Am established diversion goals for the Carmel River wells, and identified the quantity of water that can be pumped monthly in order to meet the 11,285 afa goal established in Order WR 95-10. Based upon Cal-Am's submittals covering the five-month period from October 1997 to February 1998, Cal-Am exceeded the diversion goals provided with the quarterly submittal. During the five-month period, Cal-Am's goal was to divert 3,724 af from the Carmel River. In actuality, Cal-Am diverted 4,227 af from the Carmel River (503 af or 13% more than the goal). At the same time Cal-Am exceeded its own goals to meet the limits on groundwater extraction from the Seaside groundwater basin, set by Monterey Peninsula Water Management District (MPWMD).

Cal-Am redefined its combined diversion goals in its March 16, 1998 submittal. Cal-Am did not, however, submit new goals for the Carmel River diversions. Based upon the revised combined diversion goals for the Carmel River and the Seaside groundwater basin, Cal-Am states that it was able to achieve its diversion goals. Since Cal-Am increased its goals for the first part of the water year, it had to decrease the diversion goals for the remaining portion of the water year in order to limit total diversions to 15,285 afa. Thus, it appears that Cal-Am is deferring accountability for a potential compliance problem. Cal-Am is responsible for achieving the objectives expressed in Order WR 95-10. It may be possible to adjust interim goals somewhat and still obtain compliance with the order. We are concerned, however, that revision of the goals is indicative of difficulty in complying with Order WR 95-10. We will continue to monitor the situation.

Order condition 6 requires Cal-Am to conduct a reconnaissance level study of the feasibility, benefits and costs of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plant. This requirement was expanded in the stipulated settlement of the litigation. Consequently, Cal-Am should revise its compliance submittal in the future to reflect the new requirements established pursuant to the stipulated settlement and SWRCB Order 98-04. In preparing this study we request that Cal-Am address the issues raised by the MPWMD in its comment letter (enclosed) on the 1996 study.


We note that the studies required by conditions 7 and 9 of the order are behind schedule for completion. Cal-Am has indicated that the reports should be available by March 1, 1998. We expect these reports to be submitted with the next quarterly compliance submittal.

APRIL 17 1998

California-American Water Company -3-

If you require further assistance, I can be contacted at (916) 657-1359.
Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

ORIGINAL SIGNED BY
ROGER JOHNSON 

Edward C. Anton, Chief
Division of Water Rights

Enclosure

cc: (all w/out enclosure)
Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Mr. Kris Lindstrom
P.O. Box 51008
Pacific Grove, CA 93950

National Marine Fisheries Service
77 Sonoma Avenue, Room 325
Santa Rosa, CA 95404

Mr. Clive R. Sanders
Carmel River Steelhead Association
P.O. Box 1183
Monterey, CA 93940

Mr. Robert J. Baiocchi
California Sportfishing Protection Alliance
P.O. Box 357
Quincy, CA 95971

Ms. Fran Farina
7532 Fawn Court
Carmel, CA 93923



Peter M. Rooney
Secretary for
Environmental
Protection

State Water Resources Control Board

John P. Caffrey, Chairman



Pete Wilson
Governor

Division of Water Rights
901 P Street • Sacramento, California 95814 • (916) 657-1359 FAX (916) 657-1485
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
Web Site Address: <http://www.swrcb.ca.gov>

NOVEMBER 03 1998

RECEIVED

NOV - 5 1998

CAL-AM WATER CO.

Mr. Larry D. Foy
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Foy:

COMPLIANCE WITH ORDER WR 95-10 – CARMEL RIVER IN MONTEREY COUNTY

By letter dated October 13, 1998, the California-American Water Company (Cal-Am) documented that it has complied with the 11,285 acre-feet (af) per annum water conservation goal in Order WR 95-10 for the 1997-98 water year. Cal-Am diverted 10,152.3 af to beneficial use, which is 1,132.7 af less than the goal established in the order. We commend you for the effort that you have put into this task.

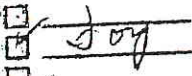
As always, we are keeping our sights set on the major goal described in the order, namely, completion of project(s) to provide a legal water supply to the Monterey peninsula. To that end, we have been closely following the Public Utilities Commission rate setting hearing, which will determine whether Cal-Am is able to fund construction of the Carmel River Dam and Reservoir Project.

Katherine Mrowka is the staff person presently assigned to this matter. If you require further assistance, Ms. Mrowka can be contacted at (916) 657-1951.

Sincerely,


Harry S. Schueller, Chief
Division of Water Rights

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

- COPY / REVIEW
- Mgr.
 - Oprs. Mgr.
 - Hum. Res. Mgr.
 - Loss Ctrl. Mgr.
 - Cross. Con. Spec.
 - Oprs. Supt. - Prod.
 - Oprs. Supt. Dist.
 - Water Qlty.
 - Cust. Svc. Spvr. - Anita
 - Cust. Svc. Spvr. - Lesley
 - Marlene
 - Tina E.
 - 
 - FILE



Pete M. Rooney
Secretary for
Environmental
Protection

State Water Resources Control Board

John P. Caffrey, Chairman

2620



Pete Wilson
Governor

Division of Water Rights
901 P Street • Sacramento, California 95814 • (916) 657-1359 FAX (916) 657-1485
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
Web Site Address: <http://www.swrcb.ca.gov>

(27-01)

NOVEMBER 03 1998

Mr. Larry D. Foy
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Foy:

COMPLIANCE WITH ORDER WR 95-10 – CARMEL RIVER IN MONTEREY COUNTY

By letter dated October 13, 1998, the California-American Water Company (Cal-Am) documented that it has complied with the 11,285 acre-feet (af) per annum water conservation goal in Order WR 95-10 for the 1997-98 water year. Cal-Am diverted 10,152.3 af to beneficial use, which is 1,132.7 af less than the goal established in the order. We commend you for the effort that you have put into this task.

As always, we are keeping our sights set on the major goal described in the order, namely, completion of project(s) to provide a legal water supply to the Monterey peninsula. To that end, we have been closely following the Public Utilities Commission rate setting hearing, which will determine whether Cal-Am is able to fund construction of the Carmel River Dam and Reservoir Project.

Katherine Mrowka is the staff person presently assigned to this matter. If you require further assistance, Ms. Mrowka can be contacted at (916) 657-1951.

Sincerely,

ORIGINAL SIGNED BY:

Harry S. Schueller, Chief
Division of Water Rights

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

KDMrowka\mluna
d:\kdm\calthx 10\30\98



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

901 P Street • Sacramento, California 95814 • (916) 657-1951
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
Fax (916) 657-1485 Web Site Address: <http://www.swrcb.ca.gov>

SURNAME/FILES



Gray Davis
Governor

SEP 02 1999

Ms. Judy Almond
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Ms. Almond:

QUARTERLY COMPLIANCE SUBMITTALS PURSUANT TO ORDER WR 95-10 – CARMEL RIVER IN MONTEREY COUNTY

This letter serves to confirm that the revised format for the quarterly compliance submittals of California-American Water Company (Cal-Am) is adequate for purposes of determining compliance with Order WR 95-10. Pursuant to our discussions, Cal-Am will provide the daily well operations records once a year with the final quarterly submittal for the water year. This information is required only for the Carmel River wells. We do not need information on well operation for the Seaside facilities. The final quarterly submittal for the water year should also provide data on timing and quantity of releases from storage in Los Padres Reservoir.

During a recent telephone conversation, Ms. Fran Farina requested that Cal-Am provide quarterly information on the extent of riparian corridor irrigation and daily well operation. Since the Monterey Peninsula Water Management District (District) is presently responsible for riparian corridor irrigation, we do not require data on this topic from Cal-Am. Of course, Cal-Am is required to annually report whether the District will continue to be responsible for implementation of the mitigation program described in condition 11 of Order WR 95-10.

The information provided in the August 16, 1999 quarterly compliance submittal is adequate for the compliance tracking that the Division of Water Rights (Division) conducts throughout the year. This information, coupled with the daily well operation information submitted annually, will enable the Division to assess compliance with Order WR 95-10. Also, the monthly report on diversions is still required.

If you require further assistance, I can be contacted at (916) 657-1951.

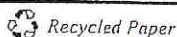
Sincerely,

ORIGINAL SIGNED BY

Katherine Mrowka
Senior Hearings Engineer

cc: See next page

California Environmental Protection Agency



SURNAME

Kdm 9-1-99

Ce

Ms. Judy Almond

-2-

SEP 02 1999

cc: Steefel, Levitt and Weiss
c/o Mr. Leonard G. Weiss
One Embarcadero Center, 29th Floor
San Francisco, CA 94111

Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Ms. Ellyn S. Levinson
Office of the Attorney General
Department of justice
50 Fremont Street, Suite 300
San Francisco, CA 94105

Ms. Fran Farina
7532 Fawn Court
Carmel, CA 93923

bcc: Barbara Katz, OCC
Steve Herrera
Tom Howard

KDMrowka\mluna
d:\kdm\carmel 8\30\99



State Water Resources Control Board



Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5363
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>

Winston H. Hickox
Secretary for
Environmental
Protection

Mark
Shemie
Copy: Len Weiss
Judy Almond
Gray Davis
Governor

MAR 27 2001

Mr. Terry Ryan
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

RECEIVED
APR - 2 2001

CAL-AM WATER CO.

Dear Mr. Ryan:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE WITH ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT NO. 262.5-6 – CARMEL RIVER IN MONTEREY COUNTY

Cal-Am is responsible for documenting compliance with two State Water Resources Control Board Orders, Order WR 95-10 (as modified by Order WR 98-04) and ACL Complaint No. 262.5-6. By letter dated January 17, 2000, Cal-Am provided compliance information for both Order WR 95-10 and the ACL complaint. The documentation shows that Cal-Am has complied with conditions 9(b), 9(c), and 9(d) of ACL Complaint No. 262.5-6. Cal-Am has previously documented compliance with ACL condition 9(a). The submittals were timely filed, in accordance with the schedule identified in ACL condition 12. We are pleased to inform you that the conditions of the ACL complaint have been fully satisfied and no further action is required.

With regard to Order WR 95-10, Cal-Am has completed the following tasks:

- Submitted urban water conservation plan titled "California-American Water Company Monterey Division Urban Water Management and Water Shortage Contingency Plan, 2000-2005" required by Condition 3(a) on August 10, 2000. No additional action is required regarding the urban water conservation plan.
- Prepared the two studies identified in Condition 6. The first study is titled "Reconnaissance-Level Hydrogeologic Study Alternative Source of Water Supply to Carmel Valley Filter Plant," Fugro West, Inc., September 1996. The second study is "Reconnaissance-Level Feasibility Study for the Operational Reconfiguration of Lower Carmel Valley Wells," Denise Duffy & Associates, Inc., June 1999. The Division of Water Rights received numerous comments on potential modifications to the diversion practices of Cal-Am and is evaluating this issue.
- Completed a study of the feasibility of bypassing early stream runoff through Los Padres Dam and Sam Clemente Dam in July of 2000, as required by condition 7. Cal-Am provided the study to the Monterey Peninsula Water Management District (District) and Department of Fish and Game (DFG) for comment. We have not received any comments on the study.
- Completed a study of the feasibility, benefits and costs of modifying Carmel River critical stream reach passage barriers, as required by condition 8. Cal-Am provided the study to the District and DFG for comment. We have not received any comments on the study.

California Environmental Protection Agency

MAR 27 2001

Cal-Am has now completed all of the studies required by Order WR 95-10. If the studies document a need for further action, we will provide appropriate notification to Cal-Am.

Katherine Mrowka is the staff person presently assigned to this matter. If you require further assistance, Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,



Harry M. Schueller, Chief
Division of Water Rights

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Ms. Ellyn Levinson
Deputy Attorney General
Office of the Attorney General
30 Fremont Street, Suite 300
San Francisco, CA 94105-2239



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

SURNAME

262.0(27-01)



Gray Davis
Governor

Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5363
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

NOV 14 2001

Ms. Judith L. Almond
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Ms. Almond:

COMPLIANCE WITH ORDER WR 95-10 - CARMEL RIVER IN MONTEREY COUNTY -
FILE 262.0 (27-01)

By letter dated October 29, 2001, you submitted the final quarterly compliance submittal for the water year October 1, 2000, through September 30, 2001, required by Order WR 95-10. The California-American Water Company diverted a total of 10,739 acre-feet (af) from the Carmel River, or 4.8 percent less than the 11,285 af goal established in Order WR 95-10. We commend Cal-Am for its commitment to maintaining the required diversion pattern and practices established in the order. Cal-Am complied with Order WR 95-10 for the past water year.

Katherine Mrowka is the staff person presently assigned to this matter. If you require further assistance, Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY:

Edward C. Anton, Chief
Division of Water Rights

cc: Mr. Stuart L. Somach
Somach, Simmons & Dunn
400 Capitol Mall, Suite 1900
Sacramento, CA 95814-4407

KDM:lv 11/09/2001
u:herdrv:kdm\judyalmond

SURNAME
DWR 540

Edm 11-2-a	VKW 11/13/01		
------------	--------------	--	--



State Water Resources Control Board



Alan C. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

FEB 04 2005

In Reply Refer
to:334:KDM:266.0

Mr. Steven Leonard
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

RECEIVED
FEB 08 2005

CALAM WATER CO

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER WR 95-10, AS AMENDED,
QUARTERLY COMPLIANCE SUBMITTALS, CARMEL RIVER IN MONTEREY COUNTY

Division of Water Rights (Division) staff has reviewed the October 12, 2004 and January 6, 2005 quarterly compliance submittals provided by the California American Water Company (Cal-Am). Cal-Am documented, in the October 12 compliance submittal, that it complied with the annual diversion limit established in Order WR 95-10 for the water year October 1, 2003 through September 30, 2004. Moreover, Cal-Am documented compliance with conditions 4, 5, 6, 7 and 8.

The January 6 compliance submittal documents progress to date for the water year October 1, 2004 through September 30, 2005.

Thank you for continuing to comply with Order WR 95-10. The progress reports are timely reviewed upon submittal by Division staff. If there had been a violation noted, the Division would have promptly advised Cal-Am in order to ensure that the violation was timely addressed.

If you require further assistance, I can be contacted at (916) 341-5363.

Sincerely,

Katherine Mrowka, Chief
Watershed Unit #3



2. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

FEB 04 2005

In Reply Refer
to:334:KDM:266.0

Mr. Steven Leonard
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER WR 95-10, AS AMENDED,
QUARTERLY COMPLIANCE SUBMITTALS, CARMEL RIVER IN MONTEREY COUNTY

Division of Water Rights (Division) staff has reviewed the October 12, 2004 and January 6, 2005 quarterly compliance submittals provided by the California American Water Company (Cal-Am). Cal-Am documented, in the October 12 compliance submittal, that it complied with the annual diversion limit established in Order WR 95-10 for the water year October 1, 2003 through September 30, 2004. Moreover, Cal-Am documented compliance with conditions 4, 5, 6, 7 and 8.

The January 6 compliance submittal documents progress to date for the water year October 1, 2004 through September 30, 2005.

Thank you for continuing to comply with Order WR 95-10. The progress reports are timely reviewed upon submittal by Division staff. If there had been a violation noted, the Division would have promptly advised Cal-Am in order to ensure that the violation was timely addressed.

If you require further assistance, I can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY:

Katherine Mrowka, Chief
Watershed Unit #3

bcc: Jane Farwell
Steve Herrera

KDMrowka:kdm/xlrivera:1-31-05
U:\PERDRV\Kathy Mrowka\cal-am compliance submittal.doc



State Water Resources Control Board



A T. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
1001 J Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

MAY 20 2005

In Reply Refer
to:334:KDM:266.0

Steven Leonard
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER NO. WR 95-10, 2ND
QUARTERLY REPORT FOR WATER YEAR OCTOBER 1, 2004 THROUGH
SEPTEMBER 30, 2005

Division of Water Rights staff has reviewed the report that you submitted for the topic listed above. The submittal complies with the requirements of Order WR 95-10. Thank you for your continued compliance.

If you have any questions, I can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY

Katherine Mrowka, Chief
Watershed Unit #3

bcc: Jane Farwell

KDMrowka:kdm/xrivera:5-18-05
U:\PERDRV\Kathy Mrowka\california american compliance.doc



State Water Resources Control Board

SURNAME



Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

A. J. Lloyd, Ph.D.
Agency Secretary

SEP 13 2005

In Reply Refer
to:334:KDM:266.0

Steven Leonard
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER NO. WR 95-10, 3RD
QUARTERLY REPORT FOR WATER YEAR OCTOBER 1, 2004 THROUGH
SEPTEMBER 30, 2005, 262.0 (27-01), CARMEL RIVER IN MONTEREY COUNTY

Division of Water Rights (Division) staff has reviewed the report that you submitted for the topic listed above. The submittal complies with the requirements of Order WR 95-10. Thank you for your continued compliance.

The Division has taken note of recent newspaper articles indicating that Sand City is developing its own water desalination facility and intends to de-annex from Cal-Am service. Pursuant to Order WR 95-10, Cal-Am is required to reduce its unlawful diversions from the Carmel River. Cal-Am is requested to inform the Division what it intends to do with the water that will be generated by Sand City's proposed change in water supply. A response is requested within 30 days of the date of this letter.

Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY

Victoria A. Whitney
Division Chief

cc: David A. Berger
General Manager
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

KDMorwka:kdm/xrivera:8-17-05

U:\PERDRV\Kathy Mrowka\cal-am compliance.doc

California Environmental Protection Agency



State Water Resources Control Board



A . Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
1001 J Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

In Reply Refer
to:334:KDM:262.0 (27-01)

NOV 16 2005

Steven Leonard
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER NO. WR 95-10, 4th
QUARTERLY REPORT FOR WATER YEAR OCTOBER 1, 2004 THROUGH
SEPTEMBER 30, 2005, 262.0 (27-01), CARMEL RIVER IN MONTEREY COUNTY

Division of Water Rights staff has reviewed the report that you submitted for the topic listed above. The submittal documents that the California-American Water Company complied with the requirements of Order WR 95-10 for the 2004-05 water year, including the 11,285 acre-feet annual diversion limit. Thank you for your continued compliance.

I can be contacted at (916) 341-5363 if you require further assistance.

Sincerely,

ORIGINAL SIGNED BY

Katherine Mrowka, Chief
Watershed Unit 3

KDMrowka:kdm/xrivera:11-15-05
U:\PERDRV\Kathy Mrowka\cal-am compliance.doc



State Water Resources Control Board

SURNAME



John Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

In Reply Refer
to:334:KDM:262.0 (27-01)

MAR - 2 2006

Steven Leonard
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER NO. WR 95-10, 1st QUARTERLY
REPORT FOR WATER YEAR OCTOBER 1, 2005 THROUGH SEPTEMBER 30, 2006, CARMEL
RIVER IN MONTEREY COUNTY

Division of Water Rights staff has reviewed the report that you submitted for the topic listed above. The
submittal states that the Court's determination in the adjudication trial regarding use of groundwater from
the Seaside groundwater basin will have a direct effect on California-American Water Company's
(Cal-Am) ability to maintain its obligations and responsibilities associated with Order WR 95-10.

Order WR 95-10, condition 4 states:

Cal-Am shall maximize production from the Seaside aquifer for the purpose of serving existing
connections, honoring existing commitments (allocations), and to reduce diversions from the
Carmel River to the greatest practicable extent. The long-term yield of the basin shall be
maintained by using the practical rate of withdrawal method.

The Court's determination of the maximum production rate for Cal-Am that will maintain the long-term
yield of the groundwater basin will assist in maintaining the long-term yield of the Seaside groundwater
basin. However, pursuant to Order WR 95-10, Cal-Am cannot divert additional water from the Carmel
River to make up any demand shortfalls that may accrue as a result of the Court's order to reduce
pumping from the Seaside aquifer. Thus, Cal-Am will need to expeditiously obtain other legal sources of
water. The State Water Resources Control Board is interested in working with both Cal-Am and
Monterey Peninsula Water Management District to resolve this issue.

Katherine Mrowka is the senior staff person assigned to this matter and she can be contacted at
(916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY

Victoria A. Whitney
Division Chief

cc: Fran Farina
389 Princeton Avenue
Santa Barbara, CA 93111

Control Tag #D-06-11
KDMrowka:kdm/xrivera:02-10-06
U:\PERDRV\Kathy Mrowka\cal-am compliance.doc

California Environmental Protection Agency

SURNAME

Kassel



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

SURNAME



Arnold Schwarzenegger
Governor

AUG 17 2006

In Reply Refer
to:334:KDM:262.0 (27-01)

Steven Leonard
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Leonard:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) 3RD QUARTERLY
COMPLIANCE SUBMITTAL FOR WATER YEAR OCTOBER 1, 2005 THROUGH
JUNE 30, 2006, ORDER WR 95-10, CARMEL RIVER IN MONTEREY COUNTY

The Division of Water Rights (Division) has reviewed the 3rd quarterly compliance
submittal for water year October 1, 2005 through June 30, 2006 submitted July 10,
2006. Cal-Am is currently in compliance with Order WR 95-10. Division staff is
concerned, however, regarding the effect of the extended hot weather in July on water
demand. Consequently, Division staff requests that you provide the July data showing
total acre-feet pumped by August 31, 2006. The submitted material should be limited to
water production information. This request is in addition to the quarterly compliance
submittal that is due at the close of the 4th quarter.

If you require further assistance, I can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY:

Katherine Mrowka, Chief
Watershed Unit 3

cc: Fran Farina
389 Princeton Avenue
Santa Barbara, CA 93111

Control Tag #D-06-51

KDMrowka:08/17/2006

U:\PERDRV\Kathy Mrowka\cal am quarterly compliance.doc



Linda S. Adams
Secretary for
Environmental Protection

Leonard Kemp 4120
State Water Resources Control Board



Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

MAR 15 2007

RECEIVED
MAR 15 2007

In Reply Refer
to:334:KDM:262.0(27-01)

Steven Leonard
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951
CAL-AM WATER

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER NO. WR 95-10, 4th QUARTERLY
REPORT FOR WATER YEAR OCTOBER 1, 2005 THROUGH SEPTEMBER 30, 2006,
CARMEL RIVER IN MONTEREY COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff reviewed the fourth quarterly compliance report. The report states that Cal-Am complied with the diversion limits of Order WR 95-10. The Division concurs that Cal-Am complied with the 11,285 acre-feet (af) diversion limit.

Division staff is concerned about the reporting methodology for the ASR test well. The diversion quantity for the ASR test well was deducted from the net system diversion total (see January 2006, for example). Temporary Permit 21175 (Application 31593) is conditioned as follows:

The source of water for the test of the Seaside Basin injection/ground water recharge project is the Carmel River. All diversions and rediversions will be accomplished using California-American Water Company (Cal-Am) facilities and the water will be supplied to the Cal-Am service area. Therefore, Carmel River water diverted under this temporary permit shall be counted when evaluating compliance with the withdrawal quantities from the Carmel River by Cal-Am as set forth in Condition 1 of Order 95-10. The amount of water diverted under this temporary permit credited towards Condition 1 of State Water Board Order 95-10 shall be the lesser of:

- a. The amount of water produced from the Seaside Basin in excess of 4,025 acre-feet of water (Cal-Am's share of the current estimated safe-yield of the Seaside Basin), or
- b. The total amount of water diverted under this temporary permit.

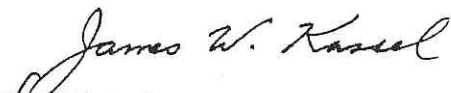
Attachment 3 of the quarterly report documents that 2,114 acre-feet (af) of water was diverted from the Seaside wells. In addition, 411 af was diverted from the Carmel River and injected into the basin using the ASR test well. Since Cal-Am only diverted 2,114 af from the Seaside basin, condition (a) has not been met. Condition (b) is in effect. Consequently, the 411 af should have been added to the total Carmel River diversions, not deducted from the total.

Cal-Am appears to have made a second reporting error. Cal-Am added the diversions at the Seaside wells to the net system production in Attachment 3. Although this is correct from a statistical point of view, the Seaside diversions should not have been included in the total net production (but the 411 af ASR production should be included), in order for the net production to accurately reflect Carmel River diversions.

In Attachment 2, Cal-Am lists a total production of 10,953 af and a net production of 10,541 af. The Division concurs with the total production figure of 10,953 af and finds that Cal-Am complied with the Order WR 95-10 diversion limit of 11,285 af. The net production figure should not, however have deducted the 411 af of ASR production.

Katherine Mrowka is the senior staff person presently assigned to this matter. Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,


Victoria A. Whitney
Division Chief



State Water Resources Control Board

SURNAME



Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

Linda S. Adams
Secretary for
Environmental Protection

MAR 15 2007

In Reply Refer
to:334:KDM:262.0(27-01)

Steven Leonard
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Leonard:

STATE WATER RESOURCES CONTROL BOARD ORDER NO. WR 95-10, 4th QUARTERLY
REPORT FOR WATER YEAR OCTOBER 1, 2005 THROUGH SEPTEMBER 30, 2006,
CARMEL RIVER IN MONTEREY COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff reviewed the fourth quarterly compliance report. The report states that Cal-Am complied with the diversion limits of Order WR 95-10. The Division concurs that Cal-Am complied with the 11,285 acre-feet (af) diversion limit.

Division staff is concerned about the reporting methodology for the ASR test well. The diversion quantity for the ASR test well was deducted from the net system diversion total (see January 2006, for example). Temporary Permit 21175 (Application 31593) is conditioned as follows:

The source of water for the test of the Seaside Basin injection/ground water recharge project is the Carmel River. All diversions and rediversions will be accomplished using California-American Water Company (Cal-Am) facilities and the water will be supplied to the Cal-Am service area. Therefore, Carmel River water diverted under this temporary permit shall be counted when evaluating compliance with the withdrawal quantities from the Carmel River by Cal-Am as set forth in Condition 1 of Order 95-10. The amount of water diverted under this temporary permit credited towards Condition 1 of State Water Board Order 95-10 shall be the lesser of:

- a. The amount of water produced from the Seaside Basin in excess of 4,025 acre-feet of water (Cal-Am's share of the current estimated safe-yield of the Seaside Basin), or
- b. The total amount of water diverted under this temporary permit.

Attachment 3 of the quarterly report documents that 2,114 acre-feet (af) of water was diverted from the Seaside wells. In addition, 411 af was diverted from the Carmel River and injected into the basin using the ASR test well. Since Cal-Am only diverted 2,114 af from the Seaside basin, condition (a) has not been met. Condition (b) is in effect. Consequently, the 411 af should have been added to the total Carmel River diversions, not deducted from the total.

SURNAME

California Environmental Protection Agency

* *klm 3-6-07* * *3/8/07* * *3/9/07* * *3/13/07*
Tipps
Kassel
for Whitney

Recycled Paper

Steven Leonard

- 2 -

Cal-Am appears to have made a second reporting error. Cal-Am added the diversions at the Seaside wells to the net system production in Attachment 3. Although this is correct from a statistical point of view, the Seaside diversions should not have been included in the total net production (but the 411 af ASR production should be included), in order for the net production to accurately reflect Carmel River diversions.

In Attachment 2, Cal-Am lists a total production of 10,953 af and a net production of 10,541 af. The Division concurs with the total production figure of 10,953 af and finds that Cal-Am complied with the Order WR 95-10 diversion limit of 11,285 af. The net production figure should not, however have deducted the 411 af of ASR production.

Katherine Mrowka is the senior staff person presently assigned to this matter. Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY:

James W. Kassel, For

Victoria A. Whitney
Division Chief

Control Tag # D-06-52

KDMrowka:kdm/llv 8/28/06;jmtipps 08.29.06/dvvilla:03-05-07
U:\PERDRV\Kathy Mrowka\cal-am compliance.doc

TAB NO. 3

STATE WATER RESOURCES CONTROL BOARD

PAUL R. BONDERSON BUILDING
901 P STREET
P O BOX 100
SANTA MONTE, CALIFORNIA 95812-0100
(916) 657-0941
FAX: 657-0932



APR 25 1996

Mr. Larry D. Foy
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE REPORT
SUBMITTALS PURSUANT TO STATE WATER RESOURCES CONTROL BOARD
(SWRCB) ORDER WR 95-10

Your letter of March 28, 1996 requests a time extension of the filing date for the next quarterly compliance report called for by SWRCB Order WR 95-10 (Order) from April 30 to May 30, 1996. For this one report, your request is approved.

I believe that it is best to keep future quarterly reports on the schedule established by the Order. Condition 13 establishes the quarterly report and states that it is to contain:

- (a) Reports of the monthly total amounts being: (1) pumped from wells; and (2) diverted from the Carmel River;
- (b) Reports of the progress being made in complying with the schedule submitted to comply with condition 11; and
- (c) Reports of the progress being made in complying with conditions 6, 7, 8 and 9.

The information in your letter seems to have been submitted in order to obtain additional time to comply with other conditions of the Order. Specifically, the information appears to have been submitted to obtain additional time to comply with conditions 7 and 12 of the Order. The report called for by condition 7 was due on December 6, 1995 and the Order does not contain any provisions for that date to be extended by the staff. In addition, the compliance plan called for by condition 12(a) was due by October 4, 1995.

The Division of Water Rights (Division) has reviewed the previous quarterly reports of Cal-Am to determine whether Cal-Am is complying with the Order, including the submittal dates. In the Division's December 26, 1995 correspondence to Cal-Am, the

Mr. Larry D. Foy

-2-

Division concluded that "Cal-Am has not yet provided information on the specific actions which it intends to take to comply with this condition." The bond measure for the project which Cal-Am was relying upon to provide an alternate water supply, the New Los Padres Reservoir Project, was defeated on November 7, 1995. Therefore, we realized that Cal-Am might need time to develop a plan to come into compliance.

Mr. Anton's March 11, 1996 letter again asked that you supply a detailed response describing the specific projects which Cal-Am intends to pursue to meet the provisions of condition 12(a) with the next quarterly report, which was due on April 30, 1996. This time was provided to allow the water company to provide a more complete response. Mr. Anton's letter, however, does not extend the date established by the Order. I suggest that you provide the SWRCB with your best estimate of when the water company will comply with the past due requirements as well as an estimate of any other deadlines that you expect to have difficulty meeting along with the additional time needed to comply. Upon receipt of this information, the SWRCB will consider the need for further action.

If you require further assistance, please contact Mr. Edward C. Anton, Chief of the Division of Water Rights at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,


for Walt Pettit
Executive Director

TAB NO. 4



EPA

State Water Resources Control Board

Division of Water Rights

Mailing Address: P.O. Box 2000 Sacramento, CA 95812-2000

901 P Street Sacramento, CA 95814 (916) 657-1359 FAX (916) 657-1485



Pete Wilson Governor

SEP 19 1996

In Reply, Refer To: 363:VVD:262.0 (27-01-06)

Ms. Jane Haines, Attorney Cal-American Rate Payers 614 Lighthouse Avenue, Suite G Pacific Grove, CA 93950

Dear Ms. Haines:

COMPLAINT BY CAL-AM RATE PAYERS AGAINST CALIFORNIA-AMERICAN WATER COMPANY; CARMEL RIVER IN MONTEREY COUNTY

The Division of Water Rights (Division) has received the complaint you submitted on behalf of the Cal-Am Rate Payers. The complaint alleges that the California-American Water Company is diverting water from the Carmel River in violation of condition 12 of State Water Resources Control Board (SWRCB) Order WR 95-10. You request that the SWRCB notify the California-American Water Company of the date when it will enforce condition 12.

The Division is monitoring compliance with Order WR 95-10. Copies of our most recent correspondence are enclosed for your information, and we will send you copies of future correspondence related to compliance with Order WR 95-10. The Division does not intend to develop a schedule for enforcing condition 12 at this time, but we will continue to closely monitor compliance with Order WR 95-10.

Your complaint does not raise any new issues for consideration by the SWRCB. Therefore, the Division will not initiate a new investigation of the matter.

If you have any questions, I can be contacted at (916) 657-1359. The staff person assigned to this complaint is Virginia Dong, and she can be contacted at (916) 657-2037.

Sincerely,

ORIGINAL SIGNED BY:

Edward C. Anton, Chief Division of Water Rights

RECEIVED

SEP 30 1996

Enclosures (2)

CAL-AM WATER CO.

cc: Monterey Peninsula Water Management District Mr. James T. Quinn, Esq. P.O. Box 85 Monterey, CA 93942-0085



TAB NO. 5



EPA

State Water Resources Control Board

Division of Water Rights

Mailing Address: P.O. Box 2000 Sacramento, CA 95812-2000

901 P Street Sacramento, CA 95814 (916) 657-1359 FAX (916) 657-1485

RECEIVED

SEP 26 1996

SEP 20 1996

CAL-AM WATER CO.

Mr. Larry D. Foy California American Water Company P.O. Box 951 Monterey, CA 93942-0951

Handwritten notes: ce, Jones, G... Weis, H... Foy, Lucia



Pete Wilson Governor

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE WITH STATE WATER RESOURCES CONTROL BOARD (SWRCB) ORDER WR 95-10

Division of Water Rights (Division) staff has reviewed the May 29, 1996 and August 7, 1996 quarterly compliance submittals which Cal-Am provided to the Division pursuant to the requirements of Order WR 95-10. The results of that review are summarized in the enclosed memorandum.

Division staff recommends that Cal-Am provide monthly data on water production from the Carmel River system from now through the end of the 1996 water year, in addition to the quarterly compliance reports. This information is needed because Cal-Am is expected to reach the limitation on pumping established in Order WR 95-10 for the 1996 water year. Submittal of monthly data will enable the SWRCB to keep accurate records regarding water diversion to ensure that Cal-Am is in compliance with the terms of the order. Cal-Am is requested to submit its records of water diversion and use by October 15, 1996.

If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

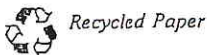
Handwritten signature of Edward C. Anton

Edward C. Anton, Chief Division of Water Rights

Enclosure

cc: (all w/enclosure) State Board Members

Walt Pettit Executive Director



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Larry D. Foy

-2-

SEP 20 1996

Mr. Darby Fuerst
Monterey Peninsula Water Management
District
P.O. Box 85
Monterey, CA 93942-0085

Mr. Kris Lindstrom
P.O. Box 51008
Pacific Grove, CA 93950

National Marine Fisheries
Service
77 Sonoma Avenue, Room 325
Santa Rosa, CA 95404

Mr. Clive R. Sanders
Carmel River Steelhead Association
P.O. Box 1183
Monterey, CA 93940

TAB NO. 6



SEP 26 1996

MEMORANDUM



Pete Wilson
Governor

EPA

CAL-AM WATER CO.

TO: Complaint File 262.0 (27-03)

State Water
Resources
Control Board

Katherine Mrowka

FROM: Katherine Mrowka
Associate WRC Engineer
DIVISION OF WATER RIGHTS

DATE: SEP 20 1996

SUBJECT: COMPLIANCE WITH ORDER WR 95-10--CARMEL RIVER IN
MONTEREY COUNTY

Division of Water Rights (Division) staff has reviewed the May 29, 1996 and August 7, 1996 quarterly compliance submittals which Cal-Am provided to the Division pursuant to the requirements of Order WR 95-10. The results of that review are summarized below.

Condition 1:

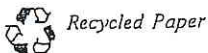
The maximum quantity of water which can be diverted from the Carmel River is governed by the provisions of condition 3(b) at this time, not condition 1.

Condition 2:

Cal-Am has documented the efforts which it is making in order to comply with this requirement. The Division should continue monitoring Cal-Am's progress regarding compliance with this requirement. The Cal-Am submittal indicates that Cal-Am may develop a project to transfer winter flows from the Carmel River to the Seaside aquifer, where the water will be stored until it is used. An appropriate water right is required prior to initiation of this program.

Condition 3(a):

Cal-Am submitted a copy of the "Monterey Division Urban Water Management and Water Shortage Contingency Plan 1995-2000" which it developed in response to this requirement. The program described in the report was also designed to comply with legislation AB 892, SB 1017 and AB 2853. It also serves as Cal-Am's compliance document pursuant to the terms of the memorandum of understanding regarding urban water conservation in California, to which the Monterey Division is a party. The document was filed with the California Public Utilities Commission, the Office of Water Conservation in the Department of Water Resources (DWR), the



SEP 20 1996

Monterey Peninsula Water Management District and the SWRCB. Based upon a limited review of the plan, it appears that the plan may be adequate to meet the requirements of condition 3 because it entails both urban water conservation and information on water use for golf courses and other irrigated areas. If DWR determines that the plan is adequate to meet its requirements, the Division should issue a finding regarding compliance with condition 3(a).

Condition 3(b):

Condition 3(b) limits the quantity of water which Cal-Am can pump from the Carmel River system to 11,990 acre-feet (af) during the 1996 water year and 11,285 af during subsequent water years.

It appears that Cal-Am is presently in compliance with this requirement. A primary issue of concern, however, is the net increase in the quantity of water which Cal-Am is pumping from the Carmel River system. The total quantity of water pumped from the system, including pumping at San Clemente Dam, Carmel Valley wells and Water West wells, was 11,721 acre-feet (af) for the twelve-month period beginning on August 1, 1995 and ending on July 31, 1996. As noted above, compliance with condition 3(b) is based upon the total quantity of water diverted during the water year. The water year begins on October 1 of each year and ends on September 30 of the following calendar year. Therefore, the data for the past 12-month period does not form the basis for determining compliance with condition 3(b) of Order WR 95-10.

Nonetheless, the submittal indicates that Cal-Am has increased its diversion from the Carmel River. Cal-Am diverted a greater amount of water from the Carmel River during May, June and July of 1996 than it diverted during the same period in 1995. If the increased rate of diversion is sustained through the remainder of the 1996 water year, Cal-Am may not achieve compliance with condition 3(b) of Order WR 95-10. Cal-Am should take all necessary steps to ensure compliance with the terms of the order. To ensure that Cal-Am is in compliance with this requirement, Cal-Am should promptly submit its pumping data for the Carmel River system for the water year. In order to provide adequate time to compile the monthly data, the submittal should be made by October 15, 1996. This will provide the information needed for the Division to take timely action, should Cal-Am fail to comply with condition 3(b).

SEP 20 1996

Condition 4:

The August 7, 1996 submittal indicates that Cal-Am has increased its use of the Seaside groundwater aquifer. Cal-Am has not yet submitted information to document that it has established an ongoing basin monitoring program and taken steps to ensure that the long-term yield of the basin is being maintained. This documentation is requested to be submitted with the next quarterly report.

Condition 5:

Cal-Am submitted a Memorandum of Understanding (MOU) dated June 18, 1996 between Cal-Am, the Monterey Peninsula Water Management District, and the Department of Fish and Game which specifies the flow release and flow maintenance requirements for the Carmel River through December 31, 1996. The MOU requires Cal-Am to maintain a minimum flow of 8.0 cubic feet per second (cfs) at the Sleepy Hollow Weir from August 1 through September 30, 1996 and 7.5 cfs from October 1 through December 31, 1996. The MOU also requires Cal-Am to operate the Carmel Valley Filter Plant to produce no more than 8.0 cfs in June and 4.0 cfs from July through December from San Clemente Reservoir as measured by a 30-day mean. Furthermore, the MOU states that Cal-Am shall make a reasonable effort to operate the lower Carmel Valley production wells in the sequence from the lowermost well and progress upstream as wells are needed and available for production. Based upon the provisions of the MOU, Cal-Am is presently in compliance with condition 5.

Condition 6:

Condition 6 requires Cal-Am to conduct a reconnaissance level study of the feasibility, benefits and costs of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plant. The August 7, 1996 Cal-Am submittal documents that on July 26, 1996 Cal-Am entered into a contract with Fugro West, Inc. to conduct the study. A copy of the proposed scope of the study was provided to the Division.

Condition 7:

This condition requires Cal-Am to study the feasibility of bypassing early storm runoff at Los Padres and San Clemente Dams to recharge the subterranean stream below San Clemente Dam in order to restore surface water flows in the river at an earlier date. In order to meet this requirement, Cal-Am provided documentation that it has entered into an agreement with the MPWMD to evaluate the feasibility of bypassing early storm runoff. A final report is expected to be completed by September 30, 1996.

SEP 20 1996

Condition 8:

In order to comply with this requirement, Cal-Am has provided documentation that it has entered into an agreement with MPWMD for their fish biologist to conduct a study of the feasibility, benefits and cost of modifying critical riffle reaches to facilitate the passage of fish. The study consists of seven tasks to be completed at different phases, with the final report to be completed June 30, 1997.

Condition 9:

Condition 9 established a timeline for Cal-Am to complete the studies identified in conditions 6, 7 and 8. Cal-Am did not meet the requirements of this condition. Nonetheless, Cal-Am has documented that it has budgeted the funds to complete these tasks and has entered into agreements with the appropriate agencies and/or professionals for preparation of the required studies. Therefore, Division staff maintains that adequate progress is being made pursuant to conditions 6, 7, 8 and 9.

Condition 10:

Cal-Am is no longer required to submit information regarding compliance with condition 10, because it documented that rock removal occurred. The Division has received recent correspondence questioning the efficacy of the rock removal program. In order to address this inquiry, the Division is requesting Cal-Am to submit additional information. The request for additional information is being handled separately from the quarterly compliance submittal.

Condition 11:

On June 18, 1996, MPWMD advised the SWRCB of its intent to continue the "Mitigation Program for the District's Water Allocation Program Environmental Impact Report" for the fiscal years 1997 through 2001. Further action may not be required pursuant to this condition.

Condition 12(a):

Cal-Am has not fully complied with the submittal requirements of condition 12(a). In order to fully comply with this condition, Cal-Am must document the steps which it intends to take to obtain a legal supply of water. The information submitted to date documents the planning level activities which Cal-Am has engaged in. Cal-Am will not be deemed to have fully complied with this condition until it identifies the specific projects which it intends to complete to obtain a legal water supply, and documents that it has budgeted the funds for the identified projects.

SEP 20 1996

Condition 12(b) and 12(c):

Cal-Am submitted the required information on August 8, 1996.

Condition 13:

Cal-Am is presently in compliance with this condition.

TAB NO. 7

TAB NO. 8

ADM
262.0
(27-01)

CALIFORNIA SPORTFISHING PROTECTION ALLIANCE
P.O. BOX 357
QUINCY, CALIFORNIA 95971

Mr. Edward Anton, Chief
Division of Water Rights
P.O. Box Box 2000
Sacramento, CA 95812-2000

November 25, 1996

Ms. Katherine Mrowka, Hearing Unit
Division of Water Rights
P.O. Box Box 2000
Sacramento, CA 95812-2000

Re: Carmel River; Board Order No. WR 95-10; Order of Four
Complaints Filed Against The California-American Water
Company; July 6, 1995

Dear Mr. Anton and Ms. Mrowka:

On July 6, 1995, the State Water Board issued Order No.
WR 95-10. That Board Order was issued because of four
complaints filed against the California-American Water
Company (hereinafter known as "Cal-Am").

We reference Board Order No. WR 95-10, dated July 6,
1995; State Water Resources Control Board.

It is our understanding the Division of Water Rights is
not enforcing the terms and conditions in Board Order 95-10.
We hope that is not true. The public needs assurances that
the Division is enforcing the terms and conditions in Board
Order 95-10.

Over 16 months have passed since the State Water Board
issued Board Order 95-10. We would appreciate the following
information and data from the both of you regarding Board
Order 95-10:

Board Order 95-10 - Condition No. 1

1. We have reviewed Condition No. 1 of Board Order 95-10.
Has Cal-Am ceased from diverting any water in excess of
14,106 acre-feet from the Carmel River as required by
Condition No. 1? Forward compliance reports which shows that
Cal-Am has complied with Condition No.1.

We reference Board Order No. WR 95-10, dated July 6,
1995; State Water Resources Control Board; at page 40 under
Condition No. 1.

Board Order 95-10 - Condition No. 2

2. We have reviewed Condition No. 2 of Board Order 95-10. Condition No. 2 requires Cal-Am to diligently implement one or more of three (3) alternatives. Forward compliance reports and/or letters which shows that Cal-Am is complying to Condition No. 2.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at page 40 under Condition No. 2.

Board Order 95-10 - Condition No. 3

3. We have reviewed Condition No. 3 of Board Order 95-10. Forward compliance reports and/or letters that shows: (a) That Cal-Am has developed and implemented an Urban Water Conservation Plan; (b) That Cal-Am has developed and implemented a Water Conservation Plan; and (c) That Cal-Am has achieved 15% conservation in 1996; pursuant to the provisions of Condition No. 3.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at pages 40 & 41 under Condition No. 3 (a) & (b).

Board Order 95-10 - Condition No. 4

4. We have reviewed Condition No. 4 of Board Order 95-10. Condition No. 4 requires Cal-Am to maximize production from the Seaside aquifer for the purpose of serving existing connections. Forward compliance reports and/or letters which shows that Cal-Am is complying to Condition No. 4.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at page 41 under Condition No. 4.

Board Order 95-10 - Condition No. 5

5. We have reviewed Condition No. 5 of Board Order 95-10. Condition No. 5 requires Cal-Am to satisfy the water demands of its customers by extracting water from its most downstream wells to the maximum practicable extent, without degrading water quality or significantly affecting the operation of other wells. Forward compliance reports and/or letters which shows that Cal-Am is complying with Condition No. 5.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at page 41 under Condition No. 5.

Board Order 95-10 - Condition No. 6

6. We have reviewed Condition No. 6 of Board Order 95-10. Condition No. 6 requires a Reconnaissance Level Study of the feasibility, benefits, and costs of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plant; with the objective of supplying water from the wells to maintain surface flows in the Carmel River as far downstream as possible by releasing water from San Clemente Dam for maintenance of fish habitat (steelhead and other fish and aquatic species). The results of the Reconnaissance Level Study and recommendations are required to be provided to the Monterey Peninsula Water Management District (District) and the California Department of Fish and Game (CDFG) for their comments.

Forward a copy of the Reconnaissance Level Study Report prepared by Cal-Am, including the comments of the District and the CDFG.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at pages 41 & 42 under Condition No. 6.

Board Order 95-10 - Condition No. 7

7. We have reviewed Condition No. 7 of Board Order 95-10. Condition No. 7 requires Cal-Am to evaluate the feasibility of bypassing early storm runoff at Los Padres and San Clemente Dams to recharge the subterranean stream (Carmel River) below San Clemente Dam in order to restore surface water flows in the Carmel River at an earlier date; and requires Cal-Am to provide the results of the study and recommendations to the District and CDFG.

Forward a copy of the Bypassflow and Recharge Study and recommendations, including comments by the District and CDFG.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at page 42 under Condition No. 7.

Board Order 95-10 - Condition No. 8

8. We have reviewed Condition No. 8 of Board Order 95-10. Condition No. 8 requires Cal-Am to conduct a study of the feasibility, benefits, and costs of modifying critical stream reaches to facilitate the passage of fish (steelhead); and that the study is required to be designed and carried out in consultation with CDFG and the District; and that the results of the study and recommendations are required to be provided to the District and CDFG for their comments.

Forward a copy of the Steelhead Passage Study and recommendations, including comments by the District and CDFG.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at page 42 under Condition No. 8.

Board Order 95-10 - Condition No. 9

9. We have reviewed Condition No. 9 of Board Order 95-10. Condition No. 9 requires Cal-Am to do the following:

(a) Studies - Conditions Nos. 6, 7, and 8 - Forward a copy of information regarding the professional persons hired by Cal-Am to conduct the studies in the above mentioned conditions.

(b) Study - Condition No. 7 - Forward a copy of the studies required by Condition No. 7; The studies for Condition No. 7 was required to be submitted to the Chief of the Division of Water Rights within five months of the order or by December 6, 1995.

(c) In the event the Chief of the Division of Water Rights agreed to an extension of time for performing the study required by Condition No. 8, forward a copy of the Division's findings that adequate flows were not available in the Carmel Rive to perform the study.

(d) The studies required by Conditions Nos. 6 and 8 are required to be submitted to the Chief of the Division of Water Rights within 12 months or by July 6, 1996. However, the Chief of the Division of Water Right may extent the time to perform the study required by Condition No. 8 upon a findings that adequate flows were not available to perform the study. Forward a copy of the Division's findings that adequate flows were not available in the Carmel Rive to perform the study.

(e) Forward copies of the actions taken by Cal-Am to correct the problems addressed by the studies.

(f) Forward copies of written justification by Cal-Am why corrective action are not appropriate.

(g) Forward copies of letters from the Chief of the Division of Water Rights to Cal-Am which determined what actions must be taken by Cal-Am which are consistent with Board Order 95-10 and also the established time period for implementation.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at pages 42 & 43 under Condition No. 9.

Board Order 95-10 - Condition No. 10

10. We have reviewed Condition No. 10 of Board Order 95-10. Condition No. 10 requires Cal-Am to remove the large rock immediately below the spillway of the Los Padres Dam which results in substantial loss of juvenile steelhead or implement other reliable measures to assure safe passage for steelhead over or around the rock.

Forward a compliance report and/or letters from Cal-Am which shows that either the large rock has been removed and/or measures have been taken by Cal-Am to provide safe passage of steelhead over or around the rock.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at page 43 under Condition No. 10.

Board Order 95-10 - Condition No. 11

11. We have reviewed Condition No. 11 of Board Order 95-10. Condition No. 11 requires Cal-Am to be responsible for implementing all measures in the "Mitigation Program for the District's Water Allocation Project Environmental Impact Report" not implemented by the District after June 30, 1996. And that not later than August 30, 1996, Cal-Am is required to submit a report to the Chief of the Division of Water Rights which identifies mitigation measures which the District does not continue to implement after June 30, 1996. And that at the same time, Cal-Am is required to submit a Plan for the approval of the Chief of the Division of Water Rights which details how Cal-Am will implement mitigation measures not implemented by the District. And that the Chief of the Division of Water Rights may excuse Cal-Am from implementing specific mitigation measures only upon making a finding that Cal-Am has demonstrated that it does not have adequate legal authority to implement the ability to finance such measures or demonstrates that such measures are demonstrably ineffective.

(a) Has Cal-Am implemented all measures in the "Mitigation Program for the District's Water Allocation Project Environmental Impact Report" not implemented by the District after June 30, 1996? Please explain the measures implemented and the measures not implemented.

(b) Forward a copy of the report submitted to the Chief of the Division of Water Rights from Cal-Am which shows the mitigation measures which the District did not continue to implement after June 30, 1996.

(c) Forward a copy of the Plan submitted by Cal-Am to the Chief of the Division of Water Rights which details how it

will implement mitigation measures not implemented by the District.

(d) Forward a copy of the findings made by the Chief of the Division of Water Rights in the event the Chief excused Cal-Am from implementing specific mitigation measures that have not been implemented by the District.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at pages 43 & 44 under Condition No. 11.

Board Order 95-10 - Condition No. 12

12. We have reviewed Condition No. 12 of Board Order No. 12. Condition No. 12 requires Cal-Am to submit to the Chief of the Division of Water Rights within 90 days of the date of Board Order 95-10 or by about October 6, 1995 the following:

(a) A Compliance Plan detailing the specific actions which will be taken to comply with Condition No. 2 and the dates by which those actions will be accomplished; (b) An Urban Water Conservation Plan; and (c) An Irrigation Management Plan.

(a) Forward a copy of the Compliance Plan which was submitted by Cal-Am to the Chief of the Division of Water Rights by October 6, 1995.

(b) Forward a copy of the Urban Water Conservation Plan which was submitted by Cal-Am to the Chief of the Division of Water Rights by October 6, 1995.

(c) Forward a copy of the Irrigation Management Plan which was submitted by Cal-Am to the Chief of the Division of Water Rights by October 6, 1995.

We reference Board Order No. WR 95-10, dated July 6, 1995; State Water Resources Control Board; at page 44 under Condition No. 12.

Board Order 95-10 - Condition No. 13

13. We have reviewed Condition No. 13 of Board Order 95-10. Condition No. 13 requires Cal-Am to file quarterly reports with the Chief of the Division of Water Rights for the following: (a) Reports of the monthly total amounts (1) pumped from wells and (2) diverted from the Carmel River; (b) Reports of the progress being made in complying with the schedule submitted to comply with Condition No. 11; and (c) Reports of the progress being made in complying with conditions 6, 7, 8, and 9.

(a) Forward copies of the quarterly reports for the requirements in Condition No. 13.

Board Order 95-10 - Condition No. 14

14. We have reviewed Condition No. 14 in Board Order 95-10. Condition No. 14 authorizes the Chief of the Division of Water Rights to refer any violation of Board Order 95-10 to the Attorney General for action under Section 1052 of the California Water Code; or to initiate such other enforcement action as may be appropriate under the California Water Code.

(a) Forward all memos, letters, and reports which documented violations of Board Order 95-10 by Cal-Am.

Request for Division of Water Rights Annual Compliance Report

15. We believe that the Division of Water Rights should be accountable to the public and the State Water Board regarding the enforcement of terms and conditions in Board Order 95-10. Consequently, we believe the Division of Water Rights should prepare an annual "Board Order 95-10 Compliance Report" to assure the public that the terms and conditions of Board Order 95-10 are being carrying out by the Division of the Water Rights.

Division of Water Rights - Letters Between Cal-Am and the Division of Water Rights - Board Order 95-10

16. Forward copies of all letters between the Division of Water Rights and Cal-Am regarding Board Order 95-10.

Please forward the requested information, reports, plans, letters, and data to me. Thank you.

Respectfully Submitted



Robert J. Baiocchi, Consultant.

For: California Sportfishing Protection Alliance

P.O. Box 357

Quincy, CA 95971

Bus Tel: 916-836-1115 or 916-283-3767; Fax: 916-283-5017

TAB NO. 9



California/EPA

State Water
Resources
Control Board

Division of
Water Rights

Mailing Address:
P.O. Box 2000
Sacramento, CA
95812-2000

11 P Street
Sacramento, CA
95814

(916) 657-1951
FAX (916) 657-1485

DEC 24 1996



Pete Wilson
Governor

Mr. Robert J. Baiocchi
California Sportfishing Protection
Alliance
P.O. Box 357
Quincy, CA 95971

Dear Mr. Baiocchi:

STATE WATER RESOURCES CONTROL BOARD (SWRCB) ORDER WR 95-10
REGARDING CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) -- CARMEL
RIVER IN MONTEREY COUNTY

On July 6, 1995, the SWRCB issued Order WR 95-10 regarding the water rights of Cal-Am to use water from the Carmel River. The order requires Cal-Am to complete specified studies, obtain additional appropriative water rights and complete a number of other actions pursuant to a timeline established in the order. Cal-Am is also required to submit information on a quarterly basis to document that it is complying with the requirements of Order WR 95-10.

By letter dated November 25, 1996, you state that it is your understanding that the Division of Water Rights (Division) is not enforcing the terms and conditions in Order WR 95-10. Cal-Am has routinely submitted the required compliance information. After the information is submitted, a detailed review is conducted by Division staff to determine whether Cal-Am has achieved the objectives established in the order. A copy of the most recent Division staff compliance review, dated September 20, 1996, is enclosed for your information. The Division has utilized the compliance review documents to: (1) identify areas where Cal-Am should focus additional efforts; and, (2) inform Cal-Am in a timely manner of information or submittals necessary to meet the requirements of Order WR 95-10.

Your letter asks that we provide copies of all correspondence between the Division and Cal-Am regarding Order WR 95-10, and also asks for copies of all reports, studies and letters developed by Cal-Am to respond to the conditions of the order. The amount of time which would be required to respond to the information request is significant. The file on this matter is more than five inches thick, and is estimated to exceed 500 pages in length. This estimate includes only those materials which Cal-Am has submitted since the SWRCB adopted Order WR 95-10.

Mr. Robert J. Baiocchi

-2-

DEC 24 1996

We are amenable to reproducing the entire file in this matter. If you would prefer to have all information in the file reproduced from a certain date to another identified date, we can accommodate your request. Prior to reproducing any material for the California Sportfishing Protection Alliance (CSPA), however, we require payment for past reproduction work. On August 17, 1994, the Division billed CSPA \$46.80 for copies. A second letter notifying CSPA that the bill was past due was sent on March 1, 1995. To date, CSPA has not paid this outstanding bill. Upon receipt of payment, the Division will send the file to a local reproduction firm for copying.

Your letter suggests that the Division should be accountable to the public and the SWRCB regarding the enforcement of terms and conditions in Order WR 95-10. The Division forwarded a copy of the September 20 compliance review memorandum and cover letter to the State Board Members, in order to inform them of the present status of this matter. The compliance information is also available to the public upon request.

If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

ORIGINAL SIGNED BY: *ETS*

Edward C. Anton, Chief
Division of Water Rights

Enclosure

KDMrowka\mluna
d:\kdm\baiocchi 12\17\96

TAB NO. 10



Cal/EPA

State Water
Resources
Control Board

Division of
Water Rights

Mailing Address:
P.O. Box 2000
Sacramento, CA
95812-2000

901 P Street
Sacramento, CA
95814
(916) 657-1951
FAX (916) 657-1485



Pete Wilson
Governor

JAN 27 1997

Mr. Edwin B. Lee
P.O. Box 2495
Carmel, CA 93921

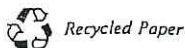
Dear Mr. Lee:

STATE WATER RESOURCES CONTROL BOARD (SWRCB) ORDER WR 95-10
CARMEL RIVER IN MONTEREY COUNTY

By letter dated January 15, 1997, you requested that the SWRCB inform you and the public of the actions which we intend to take to enforce the provisions of SWRCB Order WR 95-10. Order WR 95-10 finds that the California-American Water Company (Cal-Am) does not have adequate legal water rights to cover its diversions from the Carmel River and imposes pumping limitations which will be in effect until Cal-Am fully complies with the provisions of the order.

One of your concerns is the residents of the Monterey Peninsula may view the pumping limitations as something which will only be in effect for a year or two. This is not the case. The pumping limitations are in effect and will be in effect until Cal-Am obtains legal water rights for all of the water which it pumps from the Carmel River, or it ceases diversion of water for which it has no rights. There is a pressing need for the area to obtain an acceptable legal water supply.

The SWRCB is responsible for administering the appropriate right system in a manner which balances public trust resources and municipal water needs. The seasonal pattern of flow within the river system (including both the subterranean and surface stream) does not provide an adequate water supply during the summer for municipal water needs and maintenance of the public trust resources along the river itself. The practical effect of the limitation in seasonal water availability is that, for Cal-Am to provide an adequate water supply to the Monterey Peninsula to serve its existing customers, it must develop a reservoir project on the Carmel River or develop some other alternative non-Carmel River water supply project capable of providing for the needs of the area.



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Edwin B. Lee

-2-

11 9 1997

Irrespective of whether the voters decide to pass the Protect Our Water Resources initiative, Cal-Am (and the community) will be required to comply with Order 95-10. The SWRCB intends to take the necessary steps to enforce the provisions of the order if it becomes apparent that Cal-Am is no longer making progress on addressing the water supply issues.

We appreciate the opportunity to comment on these issues.

Sincerely,

ORIGINAL SIGNED BY:

Edward C. Anton, Chief
Division of Water Rights

cc: Monterey County Water
Resources Agency
893 Blanco Circle
Salinas, CA 93901-4455

Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Ms. Ellyn Levinson
Deputy Attorney General
Office of the Attorney General
50 Fremont Street, Suite 300
San Francisco, CA 94105-2239

California-American Water Company
c/o Mr. Lenard G. Weiss
Steefel, Levitt & Weiss
One Embarcadero Center, 30th Floor
San Francisco, CA 94111-3784

Mr. Larry D. Foy
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Edwin B. Lee

-3-

FEB 27 1997

Mr. Wesley Franklin
Executive Director
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Mr. Norman Spaulding
Carmel Valley Sun
P.O. Box 222104
Carmel, CA 93922

Mr. Tom Akeman
Monterey Herald
P.O. Box 271
Monterey, CA 93942

bc: Buck Taylor, OCC

KDM:jguro:2-6-97\final on 2-26-97
d:\controls\carm.lee



TAB NO. 11



Cal/EPA

State Water Resources Control Board

901 P Street Sacramento, CA 95814 (916) 657-0941 FAX (916) 657-0932

SURNAME/FILES

D0359



Pete Wilson Governor

MAY 14 1997

27614

Henry M. Duque, Commissioner
Steven Kotz, Administrative Law Judge
Rob Feraru, Commission Public Advisor
Public Utilities Commission
505 Van Ness Avenue, Room 2000
San Francisco, CA 94102

Dear Sirs:

APPLICATION 97-03-052--CALIFORNIA-AMERICAN WATER COMPANY
REQUEST FOR A CERTIFICATE FROM THE PUBLIC UTILITIES
COMMISSION (PUC) TO CONSTRUCT AND OPERATE THE CARMEL RIVER
DAM AND RESERVOIR.

During the past several years, the State Water Resources
Control Board (SWRCB) has been involved in an ongoing effort
to address the complex water rights and public trust
resource issues affecting the Carmel River watershed. A
brief summary of our activities and concerns was provided to
the PUC by letter dated February 22, 1996. I have
additional copies of that letter for your records.

The SWRCB has found that the California-American Water
Company (Cal-Am) does not have legal right for about
10,730 acre-feet annually (afa) which is diverted from the
river1. SWRCB Order WR 95-10 directs Cal-Am to proceed
diligently to obtain a legal water supply. The order
requires Cal-Am to institute water conservation measures in
order to reduce the level of unauthorized Carmel River
diversion. During the 1996-97 water year, Cal-Am must
restrict its diversions to a goal of 11,285 acre-feet.
Based upon a comparison of the present pumping level to past
production records, it appears that Cal-Am will not meet
this requirement.

The water supply situation has been the subject of intense
media publicity and speculation by the public as to whether
the SWRCB will enforce the provisions of its enforcement
order, Order WR 95-10. Our position in this matter is
summarized in a letter dated February 27, 1997 to
Mr. Edwin B. Lee. I have copies of that letter for your
record of this hearing.

In summary, the seasonal pattern of flow within the river
system (including both the subterranean and surface stream)
does not provide an adequate water supply during the summer

1Order WR 95-10 found that Cal-Am did not have a legal right
for about 10,730 afa of the 14,106 afa which it was diverting
from the Carmel River at the time.

Handwritten notes and signatures at the bottom of the page, including dates like 5-12-97 and names like Beringer and others.

Henry M. Duque

-2-

MAY 14 1997

for municipal water needs and maintenance of the public trust resources along the river itself. The practical effect of the limitation in seasonal water availability is that, for Cal-Am to provide an adequate water supply to the Monterey Peninsula to serve its existing customers, it must develop a reservoir project on the Carmel River or develop some other alternative non-Carmel River water supply project capable of providing for the needs of the area. The alternatives which have received the most scrutiny are the Carmel River Dam (formerly the New Los Padres Reservoir) Project, desalinization, groundwater pumping from the Seaside aquifer and legalization of the existing Carmel River diversions by Cal-Am.

I am going to limit my remarks to a discussion of the Carmel River. There has been speculation that the Carmel River Dam is not needed, and that Cal-Am could build a much smaller facility if it simply obtained a permit from the SWRCB for most of its present Carmel River pumping. This is not an option. Based on Decision 1632, if the water to serve the Monterey Peninsula is to be obtained from the Carmel River system, a significant storage facility is required. There is not enough water available from the Carmel River to authorize Cal-Am to directly divert additional water throughout the year from the river due to the need to balance the municipal water needs and the needs of the public trust resources, such as fish and wildlife, which utilize the river.

The Carmel River Dam Project is the only project developed to date which has the capability of providing greater instream flows than are presently available and providing a municipal water supply. We ask that the PUC give full consideration to the SWRCB findings in acting upon any request put before the commission and that the PUC be supportive of the efforts to solve the water supply problems of the Monterey peninsula.

Thank you for the opportunity to appear before the PUC.

Sincerely,

Original Signed By

Walt Pettit
Executive Director

Enclosures

cc: Board Members
bcc: ECA, MGT

KDM:jguro:4-30-97/d:\kathy\puc



TAB NO. 12



WATER

ate Water
esources
ontrol Board

1 P Street
cramento, CA
814
16) 657-1359
AX (916) 657-1485

URNAME/FILES

(27-01)



Pete Wilson
Governor

MAY 15 1997

Mr. Larry D. Foy
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

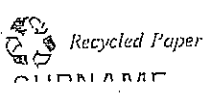
Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE
WITH STATE WATER RESOURCES CONTROL BOARD ORDER (SWRCB)
ORDER WR 95-10--262.0 (27-01)

Division of Water Rights (Division) staff has reviewed the
quarterly compliance submittals for the periods
August 1, 1996 through January 31, 1997 which Cal-Am
submitted to the Division pursuant to the requirements of
Order WR 95-10. The results of that review will be provided
to Cal-Am under separate cover.

It appears that Cal-Am will not be able to implement
adequate conservation measures to achieve the additional
five percent water conservation required by the order for
the 1996-97 water year. Order WR 95-10 sets the 1996-97
water year diversion limitation at 11,285 af. The records
which Cal-Am has submitted for the 1996-97 water year to
date (October 1996 through March 1997) document that Cal-Am
diverted 5,431 acre-feet (af) from the Carmel River during
this six-month period. This exceeds the total diversions
during the same six-month period in the 1995-96 water year.
Furthermore, even if Cal-Am limits its diversions throughout
the remainder of the water year to the quantity of water
which it utilized during the same period of the previous
water year, Cal-Am will greatly exceed the diversion limit
cap (see calculations in Appendix 1).

Based on our calculations, Cal-Am has 5,854 af remaining in
its pumping limitation to utilize during the six-months
remaining in the 1996-97 water year (which equals 976 af
per month). To meet this limit, Cal-Am must reduce pumping
by 19 percent from the amount pumped in the same time period
last year. Cal-Am is directed to submit a pumping schedule
for the remainder of the water year which sets forth the
quantity of water which Cal-Am intends to divert monthly in
order to comply with the diversion limitation cap
established in Order WR 95-10 along with an explanation of
the measures it intends to implement to meet the 11,285 af
pumping limitation. The schedule and plan are due within



Our mission is to preserve and enhance the quality of California's water resources, and
ensure their proper allocation and efficient use for the benefit of present and future generations.

[Handwritten signature]

Mr. Larry D. Foy

-2-

MAY 25 1997

two weeks of the date of this letter. Failure to timely submit and adhere to the schedule may result in referral of this matter to the Attorney General's Office requesting injunctive relief imposing a pumping schedule.

If you require further assistance, please contact Mr. Edward C. Anton, Chief of the Division of Water Rights at (916) 657-1359.

Sincerely,

~~Original Signed By:~~

Walt Pettit
Executive Director

Enclosure (Appendix 1)

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Monterey County Board of Supervisors
P.O. Box 1729
Salinas, CA 93902

Ms. Ellyn S. Levinson
Office of the Attorney General
Department of Justice
50 Fremont Street, Suite 300
San Francisco, CA 94105

bcc: MGT, SRH

KDM\jguro
d:\kathy\comp.2\5\5\97

APPENDIX 1

By letter dated April 14, 1997, Cal-Am documented that it is diverting more water from the Carmel River this water year than during the previous water year. Water diversion for the 1996-97 water year can be estimated by adding the six-months of available data for the 1996-97 water year (October 1, 1996 through March 31, 1997) to the diversion records for the period from April 1 through September 30, 1996. This yields a projected total diversion of 12,971 af for the 1996-97 water year (5,431 af for October 1, 1996 through March 31, 1997 plus 7,228 af for April 1 through September 30, 1996 equals 12,659 af). 7,228 af is the quantity which Cal-Am diverted from the Carmel River, after downward data adjustment by Cal-Am.

Cal-Am submitted data to document the quantity of water it diverted from the Carmel River during the 1995-96 water year. At the end of the water year, Cal-Am stated that its Cypress Well meter was reading too high and readjusted its diversion records for Cypress Well downward by 20 percent for the entire water year. Thus, Cal-Am deducted 482.6 af from its previously reported diversion quantities.

In addition to this adjustment, Cal-Am readjusted its records downward to account for 184 af which Cal-Am states was lost through leaking valves at the Begonia Iron Removal Plant after it was diverted from the Carmel River. The validity of the downward data adjustments is not analyzed herein. All technical analysis is contained in the forthcoming staff analysis of the compliance submittals.

TAB NO. 13

Jmc
5/5/97*

04
ad
5/5

Larry - Please check my #'s.
I had to re-do all of
them. Footnote I revised
to refer to incoming letter
Kdm

Mr. Larry D. Foy
California American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Mr. Foy:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE WITH STATE
WATER RESOURCES CONTROL BOARD ORDER (SWRCB) ORDER WR 95-10--262.0
(27-01)

Division of Water Rights (Division) staff has reviewed the
quarterly compliance submittals for the periods August 1, 1996
through January 31, 1997 which Cal-Am submitted to the Division
pursuant to the requirements of Order WR 95-10. The results of
that review will be provided to Cal-Am under separate cover.

It appears that Cal-Am will not be able to implement adequate
conservation measures to achieve the additional five percent
water conservation required by the order for the 1996-97 water
year. Order WR 95-10 sets the 1996-97 water year diversion
limitation at 11,285 af. The records which Cal-Am has submitted
for the 1996-97 water year to date (October 1996 through March
1997) document that Cal-Am diverted 5,431 acre-feet (af) from the
Carmel River during this six-month period. This exceeds the
total diversions during the same six-month period in the 1995-96
water year. Furthermore, even if Cal-Am limits its diversions
throughout the remainder of the water year to the quantity of
water which it utilized during the same period of the previous
water year, Cal-Am will greatly exceed the diversion limit cap¹.

¹ By letter dated April 14, 1997, Cal-Am documented that it is
diverting more water from the Carmel River this water year than during the
previous water year. Water diversion for the 1996-97 water year can be
estimated by adding the six-months of available data for the 1996-97 water
year (October 1, 1996 through March 31, 1997) to the diversion records for the
period from April 1 through September 30, 1996. This yields a projected
total diversion of 12,971 af for the 1996-97 water year (5,431 af for
October 1, 1996 through March 31, 1997 plus 7,540 af for April 1 through
September 30, 1996 equals 12,971 af). 7,540 af is the quantity which Cal-Am
diverted from the Carmel River, prior to downward data adjustment by Cal-Am.

Cal-Am submitted data to document the quantity of water it diverted from the
Carmel River during the 1995-96 water year. At the end of the water year,
Cal-Am stated that its Cypress Well meter was reading too high and readjusted
its diversion records for Cypress Well downward by 20 percent for the entire
water year. Thus, Cal-Am deducted 482.6 af from its previously reported
diversion quantities.

In addition to this adjustment, Cal-Am readjusted its records downward to
account for 184 af which Cal-Am states was lost through leaking valves at the
Begonia Iron Removal Plant after it was diverted from the Carmel River.

And following affect for
*on **

Based upon our calculations, Cal-Am has 5,854 af remaining in its pumping limitation to utilize during the six-months remaining in the 1996-97 water year (which equals 976 af per month). To meet this limit, Cal-Am must reduce pumping by 22 percent from the amount pumped in the same time period last year. Cal-Am is directed to submit a pumping schedule for the remainder of the water year which sets forth the quantity of water which Cal-Am intends to divert monthly in order to comply with the diversion limitation cap established in Order WR 95-10 along with an explanation of the measures it intends to implement to meet the 11,285 af pumping limitation. The schedule and plan are due within two weeks of the date of this letter. Failure to timely submit the schedule will result in referral of this matter to the Attorney General's Office requesting injunctive relief imposing a pumping schedule.

andy

If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely;

Edward C. Anton, Chief
Division of Water Rights

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Monterey County Board of Supervisors
P.O. Box 1729
Salinas, CA 93902

Ms. Ellyn S. Levinson
Office of the Attorney General
Department of Justice
50 Fremont Street, Suite 300
San Francisco, CA 94105

bcc: MGT, SRH

TAB NO. 14

262.0
(27-01)



Pete Wilson
Governor



Cal/EPA

State Water
Resources
Control Board

Division of
Water Rights

Mailing Address:
P.O. Box 2000
Sacramento, CA
95812-2000

901 P Street
Sacramento, CA
95814
(916) 657-1359
FAX (916) 657-1485

NOVEMBER 17 1997

Mr. Robert J. Baiocchi
California Sportfishing Protection Alliance
P.O. Box 357
Quincy, CA 95971

Dear Mr. Baiocchi:

COMPLAINT REGARDING ILLEGAL DIVERSION FROM THE CARMEL RIVER
BY THE CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM)—CARMEL
RIVER IN MONTEREY COUNTY

On September 18, 1997, the State Water Resources Control Board (SWRCB) received your complaint regarding the water diversion practices of the California-American Water Company (Cal-Am). The complaint asserts that Cal-Am dewatered part of the Carmel River over the Labor Day weekend. This action may have harmed steelhead trout and the California red-legged frog. The complaint also states that Cal-Am is illegally diverting water from the Carmel River. In order to address the concerns of the California Sportfishing Protection Alliance (CSPA), you request that the SWRCB staff contact the fishery resource management agencies and determine in concert with those agencies the appropriate enforcement actions against Cal-Am to prevent any further dewatering events from happening.

The enclosed September 25, 1997 letter from the Monterey Peninsula Water Management District (MPWMD) to Cal-Am provides detailed information regarding the Labor Day diversions of Cal-Am.

The SWRCB has previously addressed four other complaints about the water diversion practices of Cal-Am. The earlier complaints were addressed in Order WR 95-10, which requires Cal-Am to limit its diversions to achieve specific water conservation goals until legal water rights for its Carmel River diversions are obtained. The SWRCB monitors Cal-Am's compliance with Order WR 95-10. The diversion records of Cal-Am for the 1996-97 water year show that Cal-Am did not limit its diversions to the 11,285 acre-feet per annum specified in condition 3 of Order WR 95-10. Accordingly, Cal-Am has not complied with the intent of Order WR 95-10. On October 20, 1997, the SWRCB issued Administrative Civil Liability Complaint (ACL) No. 262.10-03 against Cal-Am (copy enclosed). A penalty of \$168,000 has been assessed for the unauthorized diversion of water from the Carmel River.

The ACL assesses a monetary penalty for 336 days of violation during the 1996-97 water year. Paragraph 6(c) of the ACL lists the dates when unauthorized diversion of water occurred; these dates include August 29 through 31. Cal-Am utilized its riparian, pre-1914 appropriative and License 11866 rights on September 1, and therefore the ACL does not list any violations on September 1.

SURNAME

R. M. ... 11-14-97 | *Attorney ... 11-14-97* | *Beringer 11/14/97* | *R. ... 11-14*

JA

NOVEMBER 17 1997

Mr. Robert J. Baiocchi

-2-


The Labor Day dewatering event occurred from August 29 through September 1. The ACL assesses a penalty of \$1,500 for unauthorized diversion occurring from August 29 through 31. Thus, the maximum additional penalty that could be assessed due to the Labor Day event is \$500 for diversions on September 1. Since it appears that Cal-Am had adequate legal rights to cover its September 1 diversions, the SWRCB did not assess a penalty for diversions on that date. Inasmuch as the SWRCB has already assessed the maximum penalty authorized under Water Code section 1052, we will take no further action on the complaint and the file is closed.

One of the issues identified in the complaint is whether Cal-Am has a responsibility to bypass greater flows downstream of its dams pursuant to Fish and Game Code section 5937 in order to keep fish in good condition in the Carmel River. The average flow bypassed at the most downstream dam, San Clemente Dam, was 6 cubic feet per second during the period identified in the complaint. During this time period, Cal-Am diverted water pursuant to the terms of a Memorandum of Understanding (MOU) with the Department of Fish and Game (DFG) and MPWMD. The MOU is renewed annually, and requires Cal-Am to divert from its most downstream wells to the maximum practicable extent, in order to leave the water in the stream as far downstream of San Clemente Dam as possible. If you have suggestions for modifying this method of operation, including any proposals regarding bypass flow conditions, please forward those recommendations to DFG, MPWMD and Cal-Am for possible inclusion in the 1998 MOU.

The complaint requests that the SWRCB take any necessary actions to prevent any future dewatering events. The potential for future penalties to be levied against Cal-Am if it does not comply with Order WR 95-10 provides an inducement for Cal-Am to limit its annual (and related daily) diversions to the quantity specified in the order.

If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to monitor Cal-Am compliance with Order WR 95-10, and she can be contacted at (916) 657-1951.

Sincerely,

ORIGINAL SIGNED
BY GERALD E. JOHNS 

Edward C. Anton, Chief
Division of Water Rights

Enclosure

bcc: JO, TH

KDMrowka\mluna
D:\kdm\cspa 11\13\97

TAB NO. 15

Mrs. Roberta Chappell

-2-

DECEMBER 04 1997

built. The majority of the reservoir yield is dedicated to providing legal water rights for ongoing diversions by Cal-Am and supplying water to protect and maintain fish and wildlife resources. This small additional increment of water would not support the growth figures provided in your letter (371,500 people now and 536,000 expected in the year 2020). Consequently, construction of this project will not have the scope of impact you have identified.

The SWRCB does not get involved in local planning issues such as the level of growth that is appropriate for a community. Our interest is limited to assuring that the State's water is used for reasonable, beneficial purposes, water is not wasted, and that water use subject to the State water right permitting authority is properly regulated, including protection of public trust resources. It is apparent, based upon the dewatering of the Carmel River during the recent drought period and the resulting damage to public trust resources, that additional local water supply projects are necessary to support the existing population base.

If you require further assistance, I can be contacted at (916) 657-1359. Katherine Mrowka is the staff person presently assigned to Carmel River matters, and she can be contacted at (916) 657-1951.

Sincerely,

ORIGINAL SIGNED BY

Edward C. Anton, Chief
Division of Water Rights

TAB NO. 16



Cal/EPA

State Water Resources Control Board

Division of Water Rights

Mailing Address: P.O. Box 2000 Sacramento, CA 95812-2000

901 P Street Sacramento, CA 95814 (916) 657-1359 FAX (916) 657-1485

SURNAME/FILES

262.0
(27-01)



Pete Wilson Governor

DECEMBER 04 1997

Ms. Charity Crane
P.O. Box 86
Carmel Valley, CA 93924

Dear Ms. Crane:

WATER ALLOCATION PRACTICES OF MONTEREY PENINSULA WATER MANAGEMENT DISTRICT (MPWMD)--CARMEL RIVER IN MONTEREY COUNTY

In an August 14, 1997 letter, you expressed concern regarding the water allocation practices of MPWMD. Specifically, you have indicated that MPWMD continues to issue water permits to persons seeking to develop properties or remodel properties in the Monterey peninsula.

In Order WR 95-10, the State Water Resources Control Board (SWRCB) determined that the California-American Water Company (Cal-Am) lacks adequate water rights for much of the water it presently diverts from the Carmel River. The order does not make any determinations regarding the quantity of water which either Cal-Am or MPWMD should allocate to various local entities within the Carmel River watershed or the Monterey peninsula. The SWRCB has been closely monitoring the water diversion situation and on October 20, 1997, the SWRCB issued Administrative Civil Liability (ACL) Order No. 262.10-03 to Cal-Am. The ACL was issued due to diversion in violation of Order WR 95-10.

Pursuant to Order WR 95-10, Cal-Am must achieve annual water conservation goals until such time as it develops adequate water rights to serve its customers. In order to achieve the water conservation goals, Cal-Am will need to develop and implement additional water conservation measures. Failure by Cal-Am to achieve a satisfactory response and demonstrate compliance with Order WR 95-10 may result in further enforcement action in the future. Consequently, while the SWRCB has not requested that MPWMD modify its approval process (such as imposition of a building moratorium), appropriate measures have been taken to inform Cal-Am that the SWRCB is serious about enforcing Order WR 95-10.

The August 14, 1997 letter from you to MPWMD suggests that Cal-Am retrofit government property with water conserving toilets, faucets, etc., in order to generate water savings. The water savings could be utilized for projects within the

SURNAME

klm 12-3-97

alloway 12-3-97

Beranger 12/3/97

R. Williams 12-3

Ms. Charity Crane

-2-

DECEMBER 04 1997

Carmel River basin or for restoration of public trust resources. Your suggestions could be incorporated into any water conservation program developed by Cal-Am.

If you require further assistance, I can be contacted at (916) 657-1359.

Katherine Mrowka is the staff person presently assigned to this matter, and she can be contacted at (916) 657-1951.

Sincerely,

ORIGINAL SIGNED BY

Edward C. Anton, Chief
Division of Water Rights

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

TAB NO. 17



Peter M. Rooney
Secretary for
Environmental
Protection

State Water Resources Control Board

John P. Caffrey, Chairman



Pete Wilson
Governor

Executive Office

901 P Street • Sacramento, California 95814 • (916) 657-0941 Fax (916) 657-0932
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
Web Site Address: <http://www.swrcc.ca.gov>

NOV 13 1998

RECEIVED

NOV 16 1998

Mr. Clive R. Sanders
Carmel River Steelhead Association
P.O. Box 1183
Monterey, CA 93940

CAL-AM WATER CO.

Dear Mr. Sanders:

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 262.10-03 – CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM)

By letter dated September 26, 1998, to Chairman John Caffrey you submitted the comments of the Carmel River Steelhead Association (CRSA) regarding the cancellation of the September 8, 1998 hearing on ACL 262.10-03 and issuance of ACL 262.5-6 on August 16, 1998. Mr. Caffrey has asked me to respond to your comments.

Your letter states that the California American Water Company (Cal-Am) "was fined \$168,000" and suggests that, instead of adopting the settlement of liability proposed by Cal-Am and incorporated in ACL 262.5-6, "the \$168,000" should be used towards development of a steelhead habitat conservation plan.

As you may be aware, acting within my authority as Executive Director of the State Water Resources Control Board (SWRCB), I issued a complaint proposing that liability be imposed in the amount of \$168,000, but Cal-Am requested a hearing on the complaint. If the SWRCB had continued with proceedings on the original complaint, no liability could be imposed until after the hearing, and \$168,000 was the maximum amount of liability the SWRCB could impose. Moreover, unless Cal-Am agreed to arrangements by which it expends money for a special project or projects in lieu of payment of administrative civil liability, any liability imposed and collected by the SWRCB would go to the general fund of the State of California.

The settlement proposed by Cal-Am was attractive because it entailed expenditures by Cal-Am substantially in excess of the maximum liability the SWRCB could impose, for a project that would help reduce the need for diversions from the Carmel River, as opposed to having money paid to the State for general revenue purposes. The proposed settlement also avoided the need for a potentially expensive and time consuming hearing. The Water Code seeks to promote expeditious resolution for administrative civil liability complaints by providing for a hearing only where requested by the party to whom the complaint is issued. Accordingly, I issued a new complaint incorporating Cal-Am's settlement proposal.

Where a settlement involves special expenditures by the person to whom the complaint is issued in lieu of payment of civil liability, it is important to the SWRCB that those expenditures be for actions over and above what that person would otherwise undertake. The SWRCB would not accept a settlement where the alleged violator avoids payment of liability simply by taking credit

California Environmental Protection Agency

NOV 13 1998

for expenditures that would be made whether or not an administrative civil liability complaint were issued. SWRCB staff reviewed the Cal-Am settlement proposal to make sure that the expenditures to be made by Cal-Am were over and above what Cal-Am would be doing in the absence of the settlement. By contrast, it is unclear whether having Cal-Am pay for a habitat conservation plan in lieu of paying administrative civil liability would pass this test. Your letter indicates that a habitat conservation plan is required under the federal Endangered Species Act. If federal law requires preparation of the habitat conservation plan, it would appear that following your suggestion would allow Cal-Am to avoid liability based on an expenditure that would have to be made in any event.

SWRCB Order WR 95-10 sets requirements for Cal-Am to diligently implement actions to eliminate its unlawful diversions from the Carmel River. Order WR 95-10 also includes conditions relating to the mitigation of adverse conditions for fish in the Carmel River. By issuing an administrative civil liability complaint against Cal-Am, the SWRCB intended to underscore its willingness to enforce Order WR 95-10. By accepting a settlement offer from Cal-Am involving expenditures in excess of the maximum liability the SWRCB could impose, the SWRCB made its point. We also avoided the risk that a contested hearing over what enforcement is appropriate would have diverted attention from the central issue of assuring compliance with Order WR 95-10.

Katherine Mrowka is the staff person presently assigned to this matter. If you require further assistance, Ms. Mrowka can be contacted at (916) 657-1951.

Sincerely,

Original Signed By:

Walt Pettit
Executive Director

cc: ✓ Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Mr. Larry Foy
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

TAB NO. 18



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights
901 P Street • Sacramento, California 95814 • (916) 657-1951
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
Fax (916) 657-1485 Web Site Address: <http://www.swrcb.ca.gov>

SURNAME/FILES



Gray Davis
Governor

SEP 02 1999

Ms. Judy Almond
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

Dear Ms. Almond:

QUARTERLY COMPLIANCE SUBMITTALS PURSUANT TO ORDER WR 95-10 – CARMEL RIVER IN MONTEREY COUNTY

This letter serves to confirm that the revised format for the quarterly compliance submittals of California-American Water Company (Cal-Am) is adequate for purposes of determining compliance with Order WR 95-10. Pursuant to our discussions, Cal-Am will provide the daily well operations records once a year with the final quarterly submittal for the water year. This information is required only for the Carmel River wells. We do not need information on well operation for the Seaside facilities. The final quarterly submittal for the water year should also provide data on timing and quantity of releases from storage in Los Padres Reservoir.

During a recent telephone conversation, Ms. Fran Farina requested that Cal-Am provide quarterly information on the extent of riparian corridor irrigation and daily well operation. Since the Monterey Peninsula Water Management District (District) is presently responsible for riparian corridor irrigation, we do not require data on this topic from Cal-Am. Of course, Cal-Am is required to annually report whether the District will continue to be responsible for implementation of the mitigation program described in condition 11 of Order WR 95-10.

The information provided in the August 16, 1999 quarterly compliance submittal is adequate for the compliance tracking that the Division of Water Rights (Division) conducts throughout the year. This information, coupled with the daily well operation information submitted annually, will enable the Division to assess compliance with Order WR 95-10. Also, the monthly report on diversions is still required.

If you require further assistance, I can be contacted at (916) 657-1951.

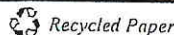
Sincerely,

ORIGINAL SIGNED BY

Katherine Mrowka
Senior Hearings Engineer

cc: See next page

California Environmental Protection Agency



SURNAME

Handwritten: km 9-1-99

Handwritten: ce

Ms. Judy Almond

-2-

SEP 02 1999

cc: Steefel, Levitt and Weiss
c/o Mr. Leonard G. Weiss
One Embarcadero Center, 29th Floor
San Francisco, CA 94111

Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Ms. Ellyn S. Levinson
Office of the Attorney General
Department of justice
50 Fremont Street, Suite 300
San Francisco, CA 94105

Ms. Fran Farina
7532 Fawn Court
Carmel, CA 93923

bcc: Barbara Katz, OCC
Steve Herrera
Tom Howard

KDMrowka\mluna
d:\kdm\carmel 8\30\99

TAB NO. 19



State Water Resources Control Board



Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5363
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>

Winston H. Hickox
Secretary for
Environmental
Protection

Mark
Shome
Copy: Len Weiser
Judy Almond
Gray Davis
Governor

MAR 27 2001

Mr. Terry Ryan
California-American Water Company
P.O. Box 951
Monterey, CA 93942-0951

RECEIVED
APR - 2 2001

CAL-AM WATER CO.

Dear Mr. Ryan:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) COMPLIANCE WITH
ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT NO. 262.5-6 –
CARMEL RIVER IN MONTEREY COUNTY

Cal-Am is responsible for documenting compliance with two State Water Resources Control Board Orders, Order WR 95-10 (as modified by Order WR 98-04) and ACL Complaint No. 262.5-6. By letter dated January 17, 2000, Cal-Am provided compliance information for both Order WR 95-10 and the ACL complaint. The documentation shows that Cal-Am has complied with conditions 9(b), 9(c), and 9(d) of ACL Complaint No. 262.5-6. Cal-Am has previously documented compliance with ACL condition 9(a). The submittals were timely filed, in accordance with the schedule identified in ACL condition 12. We are pleased to inform you that the conditions of the ACL complaint have been fully satisfied and no further action is required.

With regard to Order WR 95-10, Cal-Am has completed the following tasks:

- Submitted urban water conservation plan titled "California-American Water Company Monterey Division Urban Water Management and Water Shortage Contingency Plan, 2000-2005" required by Condition 3(a) on August 10, 2000. No additional action is required regarding the urban water conservation plan.
- Prepared the two studies identified in Condition 6. The first study is titled "Reconnaissance-Level Hydrogeologic Study Alternative Source of Water Supply to Carmel Valley Filter Plant," Fugro West, Inc., September 1996. The second study is "Reconnaissance-Level Feasibility Study for the Operational Reconfiguration of Lower Carmel Valley Wells," Denise Duffy & Associates, Inc., June 1999. The Division of Water Rights received numerous comments on potential modifications to the diversion practices of Cal-Am and is evaluating this issue.
- Completed a study of the feasibility of bypassing early stream runoff through Los Padres Dam and Sam Clemente Dam in July of 2000, as required by condition 7. Cal-Am provided the study to the Monterey Peninsula Water Management District (District) and Department of Fish and Game (DFG) for comment. We have not received any comments on the study.
- Completed a study of the feasibility, benefits and costs of modifying Carmel River critical stream reach passage barriers, as required by condition 8. Cal-Am provided the study to the District and DFG for comment. We have not received any comments on the study.

California Environmental Protection Agency

MAR 27 2001

Cal-Am has now completed all of the studies required by Order WR 95-10. If the studies document a need for further action, we will provide appropriate notification to Cal-Am.

Katherine Mrowka is the staff person presently assigned to this matter. If you require further assistance, Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,



Harry M. Schueller, Chief
Division of Water Rights

cc: Mr. Darby Fuerst
Monterey Peninsula Water
Management District
P.O. Box 85
Monterey, CA 93942-0085

Ms. Ellyn Levinson
Deputy Attorney General
Office of the Attorney General
30 Fremont Street, Suite 300
San Francisco, CA 94105-2239

TAB NO. 20



Terry Tamminen
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>



Arnold Schwarzenegger
Governor

Steve

JAN 14 2004

Fran Farina
Acting General Manager
Monterey Peninsula Water Management District
5 Harris Court, Bldg. G
Monterey, CA 93942

Dear Ms. Farina:

REQUEST TO AMEND SWRCB ORDER NO. WR 95-10 TO MITIGATE ADVERSE IMPACTS TO COASTAL SUBAREAS OF THE SEASIDE GROUNDWATER BASIN

This letter is in response to your letter on behalf of the Monterey Peninsula Water Management District (MPWMD) dated August 29, 2003, requesting amendments to Water Rights Order 95-10 for diversions by the California-American Water Company (Cal-Am) from the Carmel River. In your letter, you request that the State Water Resources Control Board (SWRCB) conduct a public hearing to consider amending Order 95-10 to allow Cal-Am to increase diversions from the Carmel River in order for Cal-Am to decrease diversions from the Seaside Groundwater Basin.

In Order 95-10, the SWRCB found that Cal-Am is diverting approximately 10,730 acre-feet annually (afa) from the Carmel River or its underflow without a valid basis of right. In addition, the SWRCB found that Cal-Am's diversions from the Carmel River are having an adverse effect on riparian habitat and wildlife, including threatened Carmel River steelhead. Order 95-10 requires Cal-Am to diligently pursue a legal water supply and to immediately cease diversions from the Carmel River above 11,285 afa. Order 95-10 directs Cal-Am to maximize production from the Seaside Groundwater Basin in order to decrease diversions from the Carmel River to the greatest practicable extent.

In your letter, you state that Cal-Am's increased diversions from the Seaside Groundwater Basin in combination with other production increases in the basin since 1995 have resulted in depleted groundwater storage, lowered water levels, and a greater risk of salt-water intrusion in the coastal subareas of the Seaside Groundwater Basin. To mitigate for these impacts, the MPWMD proposes to increase in-lieu recharge to the basin by reducing diversions by Cal-Am during certain conditions in order to allow the basin to naturally recharge. Cal-Am would then increase diversions from the Carmel River to meet its demands. MPWMD proposes that increased diversions from the Carmel River would only occur during above-normal and wet years when sufficient flow is present in the river to protect public trust resources in accordance with the National Marine Fisheries Service's guidelines on "Instream Flow Needs for Steelhead in the Carmel River" (June 3, 2002).

Your request is denied for the following reasons:

- Order 95-10 is directed to Cal-Am and Cal-Am has not requested any relief or change from the Order.
- Water diversions from the Seaside Groundwater Basin are unregulated. Consequently, there is no guarantee that a decrease in Cal-Am's diversions from the basin would reduce cumulative diversions to levels that are within the basin's safe yield because other diverters might increase production in proportion to Cal-Am's reduction in use. In addition, the amount by which Cal-Am is able to decrease diversions from the Seaside Groundwater Basin by increasing diversions from the Carmel River while protecting public trust uses may be insignificant.
- There is no assurance that the SWRCB would find any significant amount of additional water available from the Carmel River for use by Cal-Am, especially in light of competing unpermitted applications and public trust issues.
- Increasing Cal-Am's illegal diversions from the Carmel River is contrary to the intent of Order 95-10 to require Cal-Am to diligently pursue a legal basis of right for all of its diversions. Allowing for increased illegal diversions for an indefinite period of time will not encourage decreased reliance by Cal-Am on the Carmel River.

If you have any further questions, please contact Diane Riddle, the staff member assigned to this matter, at (916) 341-5297.

Sincerely,


Victoria A. Whitney
Division Chief

cc: David Laredo
606 Forest Ave.
Pacific Grove, CA 93950

California-American Water Company
50 Ragsdale Drive, Suite 100
Monterey, CA 93942-0951

Stuart L. Somach
Somach, Simmons & Dunn
813 Sixth Street, Third Floor
Sacramento, CA 95814-2403

TAB NO. 21



State Water Resources Control Board



Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

S. Adams
Secretary for
Environmental Protection

MAILED June 7, 2006

In Reply Refer
to:334:KDM: 262.0 (27-01)

California-American Water Company
c/o Stuart L. Somach
Somach, Simmons & Dunn
813 Sixth Street
Sacramento, CA 95814

David A. Berger
Monterey Peninsula
Water Management District
P.O. Box 85
Monterey, CA 93942-0085

Dear Messrs. Somach and Berger:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) AND MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT (DISTRICT), CARMEL RIVER IN MONTEREY COUNTY,
262.0 (27-01)

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) has been monitoring compliance with Order WR 95-10 for 10 years. Order WR 95-10 requires Cal-Am to diligently develop and implement actions to terminate its unlawful diversions from the Carmel River. To date, neither Cal-Am nor the District has developed and implemented projects to reduce Carmel River diversions, other than temporary measures. The Division is not satisfied with progress in complying with the terms of the order. As you are aware, the Division has foregone annual monetary fines for illegal diversions from the Carmel River to provide opportunity to expend available resources on developing solutions. Absent substantial progress, however, the Division will evaluate whether it should proceed differently in this matter. Cal-Am and the District are requested to report back to the State Water Board by July 5, 2006 regarding progress in working together to reduce Carmel River diversions. There are a number of matters requiring your attention, described below.

Cal-Am Complaint

Cal-Am filed a complaint with the Division on November 3, 2005 regarding the District's non-use under Permits 20808 and 7130B (Applications 27614 and 11674B). The complaint is not accepted.

To be acceptable, a complaint must assert alleged harm associated with either an unauthorized or unreasonable water diversion and use or adverse impacts to public trust resources. Since the District does not divert water pursuant to these rights, Cal-Am has not demonstrated that has occurred. (Cal. Code of Regs., tit. 23, (CCR), § 820.) Moreover, pursuant to the March 30, 2006 Agreement between Cal-Am and the District, Cal-Am has agreed to withdraw the complaint.

San Clemente Dam Water Right

The Division has no record of a water right for storage at San Clemente Dam. It is our understanding that storage at this facility is being restricted pursuant to requirements of the Division of Safety of Dams. If, however, any unauthorized storage is occurring or will occur in the future as a result of dam buttressing and subsequent refill, the unauthorized storage may be subject to Administrative Civil Liability fines pursuant to Water Code section 1052.

District Permits 7130B and 20808

A. Due Diligence

Although not a suitable subject for a complaint, Cal-Am raises the issue of whether the District is diligently pursuing its water rights. Permit 7130 was issued on July 7, 1948, and Permit 7130B was subsequently issued when the right was split on May 2, 1984. There has been no water diversion and use under Permit 7130B and it appears that the right should be revoked for non-use. The Division intends to issue a Notice of Proposed Revocation for Permit 7130B.

Permit 20808 was issued pursuant to Decision 1632 on July 6, 1995. There has been no water use under this permit in 10 years. A showing of due diligence will be required in any proceeding on time extension for this permit.

B. Jointly Held Versus Separately Held Water Rights

In accordance with the court order settling litigation regarding Order WR 95-10 and Decision 1632, neither Cal-Am nor the District can divert water pursuant to Decision 1632 or Permit 7130B until the State Water Board conducts a public hearing to: (1) review any changes in the project as permitted under Decision 1632 and Permit 7130B, (2) review the information in the supplemental Environmental Impact Report, (3) review whether public trust values are adequately protected, and (4) determine whether the permits should be modified.

The hearing may also consider whether any permits for diversion from the Carmel River should be jointly held by the District and Cal-Am. At issue will be whether the Division should split the water right and (1) assign Permit 20808A to Cal-Am to cover a portion of its illegal diversions during periods when adequate flows are available to satisfy the National Marine Fisheries Service (NMFS) flow requirements for the Carmel River, and (2) assign Permit 20808B to the District for future growth.

Pursuant to the March 30, 2006 Agreement, Cal-Am and the District will jointly hold the water rights for only the Phase I Aquifer Storage and Recovery Project.

C. Time Extension Required

Permits 7130B and 20808 require that construction be completed by December 31, 2005. The Division's February 27, 2006 letter advised the District that the permits cannot be maintained without a valid time extension. Any time extension request must show cause for further extension pursuant to CCR section 844.

D. Change Petitions for Permits 7130B and 20808

2002 Petitions Overview

The District filed petitions dated April 19, 2002 to change Permits 7130B and 20808 to initiate a direct diversion project to divert 7,909 acre-feet per annum (afa) at San Clemente Dam.

Permit 7130B authorizes storage at New Los Padres Reservoir, with water rediverted at San Clemente Dam and Cal-Am's downstream wells from October 1 of each year to May 31 of the succeeding year. The permit does not authorize direct diversion. The District petitions to allow direct diversion at San Clemente Dam.

Permit 20808 authorizes storage in New Los Padres Reservoir and direct diversion from November 1 of each year to June 30 of the following year at Cal-Am's wells downstream of San Clemente Dam. The District petitioned to add direct diversion at San Clemente Dam.

The District requested that the Division suspend 31 of the 53 existing permit conditions of Permits 7130B and 20808 in order to implement the direct diversion project, including the following requirements of each permit:

- Maintain specified instream flows for steelhead.
- Install and maintain stream gages to measure the required instream flows.
- Limit surface diversions from San Clemente Dam to the Cal-Am filter plant.
- Mitigation measures related to reservoir construction and operation.
- Construction shall be completed by December 31, 2005.
- Prior to construction, obtain permits from the Department of Fish and Game, Regional Water Quality Control Board and Division of Safety of Dams.
- Provide documentation that the District has committed adequate long-term financial resources to fund all mitigation measures identified in the permit.
- Mitigate for impacts to cultural resources.
- Modify the permit condition stating that the District shall not divert water unless and until Cal-Am has obtained an alternate supply of water for its illegal diversions.

Protests

The Division accepted the following protests: National Marine Fisheries Service (NMFS), Department of Fish and Game, Carmel River Steelhead Association, Homestead Homeowners Association, Quail Lodge, Roy Kaufman, Clint and Margaret Eastwood Trust, JEM Partners, Rancho Cañada, Carmel Valley Ranch, Edwin Lee and Cal-Am. The protests have not been resolved.

Water Availability Analysis for Petitions

The Division requested that the District submit a water availability analysis that takes into account the flows recommended by NMFS in its 2002 report on fishery requirements for the Carmel River. The District's November 17, 2003 analysis used NMFS fishery bypass requirements for the reach between river mile 5.5 and the lagoon.

The diversion period analyzed is November 1 of each year to June 30 of the succeeding year. The District's analysis assumes that Cal-Am diverts no more than 3,376 afa and non Cal-Am annual diversions from the Carmel River were no more than 2,936 afa. The District utilized the 2002 well reports for non-Cal-Am pumpers, adjusted to reflect Table 13 reservations. The District did not, however, include the Cal-Am Table 13 diversions in the analysis. Cal-Am has senior water rights to the District for its Table 13 diversions. Accordingly, this is an error in the analysis and over-reports water available for diversion under the District's permits by 2,964 afa.

The analysis reduces Cal-Am's recognized water rights by 1,925 afa. Order WR 95-10 recognized 2,179 afa of storage in Los Padres Reservoir under License 11866 (the licensed quantity was reduced to reflect siltation). The District's analysis factors in ongoing siltation and assumes that the reservoir capacity was initially 1,569 afa but will ultimately be reduced to 254 afa over time. Since Cal-Am could take action to restore lost reservoir capacity, the analysis should assume that Cal-Am at least maintains the existing capacity. This element of the analysis is unacceptable.

The District estimated that on a median annual basis 6,734 afa of excess flow is available. During dry years, approximately 1,712 af would be available. During wet years, approximately 11,297 af would be available. The median monthly flows are: November - 18 af; December - 168 af; January - 643 af; February - 1,440 af; March - 2,087 af; April - 874 af; May - 0 af; and June - 323 af.

Factoring in Cal-Am's existing diversion facilities and water treatment capacity limits, the District's analysis identifies the maximum quantity of excess flows that could be diverted in the lower reach of the Carmel Valley alluvial aquifer during the November 1 through June 30 period as approximately 4,020 af (242 days x 16.61 afd = 4,020 af).

The District's water availability analysis is not accepted for the reasons listed above. Moreover, the analysis does not support approval of the petitions to directly divert 42 cfs, with a maximum annual limit of 7,909 af. The petitions may be denied if the District is unable to document that there is sufficient water available to serve them. A revised water availability analysis should be submitted to the Division within 60 days of the date of this letter. The analysis is requested pursuant to Water Code section 1701.3. Failure to submit the requested analysis may result in petition cancellation pursuant to Water Code section 1701.4.

CEQA

The District has not completed a CEQA document for the petitions. The District is requested to submit a work plan for completion of the CEQA document within 60 days of the date of this letter.

2003 Petitions Overview

The District filed petitions dated September 12, 2003 to change Permits 7130B and 20808 to divert Carmel River water to offstream storage in the Seaside groundwater basin. The project is designed in phases. During the first phase, 2,022 afa would be diverted from December 1 of each year to May 31 of the succeeding year. In phase two 3,234 afa would be diverted, and during phase three 7,300 afa would be diverted.

The petition was noticed April 15, 2005. The Division accepted protests filed by DFG and NMFS. Protest resolution is ongoing.

CEQA

The District has circulated a draft Environmental Impact Report for the first phase of the project. The District has not withdrawn its petitions for phases two and three of the project. Therefore, the Division requests that the District submit a workplan listing the dates for completion of any studies required for the CEQA document for the subsequent project phases, the date of completion of the Initial Study and the date of completion of the draft and final CEQA document within 60 days of the date of this letter. The District should also provide a water availability analysis for the petitions at the same time.

Cal-Am Applications 30215A, 30215B, 30644 and 30715

Cal-Am filed four applications to divert water from the Carmel River. Applications 30215A and 30215B, combined, request authorization to directly divert 46.71 cfs. Application 30644 requests authorization to divert 21 cfs and collect 24,800 afa to storage. Application 30715 requests authorization to directly divert 16.1 cfs.

A. Conflict with Declaration of Fully Appropriated Streams

The applications, except Application 30215A, conflict with the Declaration of Fully Appropriated Streams (Declaration) listing. By letter dated December 17, 1999, Cal-Am requested that the State Water Board lift the declaration that the Carmel River is fully appropriated in order to process Cal-Am's applications. The Division's January 21, 2000 response accepted the December 17 letter as a petition for modification of the Declaration and agreed to hold the matter in abeyance as requested by Cal-Am. Cal-Am was informed at that time that all petitions to modify the Declaration must be accompanied by the information specified in CCR section 871. The Division also advised Cal-Am that it would be expected to furnish information to address section 871 prior to activating the petition. The practical effect of this action was that Cal-Am was not required to amend its applications to conform them to the limited four-month season of availability listed in the Declaration.

Cal-Am is requested to: (a) submit the information required by section 871 within the next 60 days, or (b) revise the applications to conform to the Declaration. This information is requested pursuant to Water Code section 1275. Applications 30215B, 30644 and 30715 may be cancelled without further notification for failure to respond or if the Division is unable to find that cause exists for revision of the Declaration.

B. Memorandum of Understanding (MOU)

Cal-Am must demonstrate the availability of unappropriated water for its applications. Cal-Am has entered into an MOU with the Division for preparation of the water availability analysis and the CEQA document. Cal-Am must proceed in a timely manner in pursuing its filings in accordance with an approved work plan pursuant to the MOU.

If Cal-Am is unable to demonstrate the availability of unappropriated water for its filings, the applications may be cancelled. Since much of the water that Cal-Am seeks to appropriate is currently assigned to the District's permits, Cal-Am and the District should cooperatively address the outstanding issues.

C. Due Diligence Required

All applicants must exercise due diligence in pursuing their applications. If Cal-Am is unable or unwilling to pursue its filings, the applications will be cancelled for lack of due diligence.

Stuart Somach
David A. Berger

- 7 -

Katherine Mrowka is the senior staff person presently assigned to this matter. Ms. Mrowka can be contacted at (916) 341-5363.

Sincerely,

ORIGINAL SIGNED BY JAMES W. KASSEL FOR

Victoria A. Whitney
Division Chief

bcc: Steve Herrera, Barbara Katz, Megan Sheely

Control Tag # 18878

KDMrowka:kdm/xrivera:12-27-05;jmtipps 05.02.06
U:\PERDRV\Kathy Mrowka\cal-am complaint.doc