

MPWMD - DFG



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

Linda S. Adams
Secretary for
Environmental Protection

RECEIVED

AUG 10 2007

AUG - 6 2007

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

MPWMD

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

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

Dear Ms. Dunn and Mr. Berger:

CALIFORNIA-AMERICAN WATER COMPANY (CAL-AM) APPLICATIONS 30215A, 30215B, 20644 AND 30715 AND MONTEREY PENINSULA WATER MANAGEMENT DISTRICT (DISTRICT) PERMITS 7130B AND 20808 (APPLICATIONS 11674B AND 27614), CARMEL RIVER IN MONTEREY COUNTY, 262.0 (27-01)

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued a letter on June 7, 2006, regarding compliance with Order WR 95-10 and water project development by Cal-Am and the District. During a June 21, 2006 meeting with District staff and Cal-Am, the Division agreed to withdraw the letter. Cal-Am's July 24 letter sought confirmation that the June 7 letter was withdrawn. The letter is withdrawn, but there are a number of items in the letter that must still be addressed. Consequently, they were addressed during the June 21 meeting and are also addressed herein.

During the meeting, the District was asked whether it is pursuing any projects other than the Aquifer Storage and Recovery Project. General Manager David Berger confirmed that this is the only project under development. The District plans to rely on desalinated water when Carmel River water is not available.

Mr. Berger indicated that the District has not been developing the project proposed in its April 19, 2002 petitions to directly divert and divert to underground storage 7,909 acre-feet per annum (afa) of water pursuant to Permits 7130B and 20808. Mr. Berger stated he would recommend that the District Board withdraw the 7,909 afa petition or, alternatively, Cal-Am could take the lead under the District's water rights to pursue this petition. A status report is requested within the next 30 days on this item. If no further action is taken to pursue the petitions within 60 days, the Division will cancel the petitions on the basis of failure to provide information needed to process the petitions. (Wat. Code § 1701.3.) The District has not prepared a California Environmental Quality Act document for the petitions.

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 petitions described a phased project, with a phase one size of 2,022 afa and eventual size of 7,300 afa. During the meeting, the District clarified that it is currently only pursuing the first phase of the project. This letter confirms that the Division is only processing a petition for the first phase of the project. The remaining petition elements are considered withdrawn.

AUG - 6 2007

The District agreed during the meeting to file petitions for extension of time for Permits 7130B and 20808. The District filed the required petitions on August 4, 2006. The District must show cause for extension of time pursuant to California Code of Regulations (CCR) section 844. A showing of cause is required to be submitted within the next 30 days. Please include only information relevant to developing the permitted project. Failure to demonstrate cause for extension will result in petition denial.

Cal-Am filed a complaint with the Division on November 3, 2005 regarding the District's non-use under Permits 7130B and 20808. Although Cal-Am agreed to withdraw the complaint in the March 30, 2006 Agreement between Cal-Am and the District, Cal-Am advised the Division during the meeting that it has not yet withdrawn the complaint. It appears that complaint dismissal based on the Agreement is appropriate. Unless the Division is advised to the contrary within the next 30 days, the Division will assume that Cal-Am agrees that no further action is required on the complaint and the complaint is considered closed.

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, Cal-Am's unauthorized storage may be subject to Administrative Civil Liability pursuant to Water Code section 1052.

Cal-Am has pending Applications 30215A, 30215B, 30644 and 30715. 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. With the exception of Application 30215A, the applications conflict with the Declaration of Fully Appropriated Streams (Declaration). 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, subdivision (c)(1). 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 30 days, or (b) revise the applications to conform to the Declaration. The information is requested pursuant to Water Code section 1275. Cal-Am is advised that failure to either show cause for revision of the Declaration or revise the applications to conform to the Declaration will result in application cancellation without further notification for Applications 30215B, 30644 and 30715.

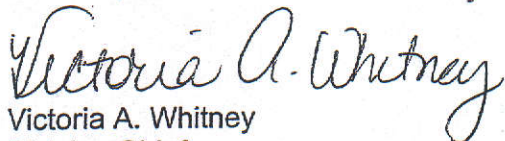
Sandra Dunn
David A. Berger

- 3 -

AUG - 6 2007

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

Sincerely,

A handwritten signature in cursive script that reads "Victoria A. Whitney". The signature is written in dark ink and is positioned above the printed name and title.

Victoria A. Whitney
Division Chief