

# **Th3a & 4a**

**A-4-MRA-19-0034 / 9-19-0918**

California-American Water

**CORRESPONDENCE**

**FROM THE AGENCIES**



# Monterey One Water

## Providing Cooperative Water Solutions

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August 20, 2020

Mr. Tom Luster  
California Coastal Commission  
Energy and Ocean Resources Unit  
455 Market Street, Suite 228  
San Francisco, CA 94105

**Re: Response to Requests for Clarification regarding Latham & Watkins, LLP letter dated August 13 regarding Monterey Peninsula Water Supply Project CDP Application No. 9-19-0918 and Appeal No. A-3-MRA-19-0034**

Dear Mr. Luster:

With this letter, Monterey One Water ("M1W") hereby responds to your inquiry dated August 13, 2020 regarding the above-referenced letter from Latham and Watkins LLC.

### **Water Supply and Demand and Exhibit 2 (Hazen & Sawyer Letter)**

#### *Declining Wastewater Flows*

The Latham and Watkins letter and Exhibit 2 appears to contain inaccurate analyses and conclusions regarding sources of supply and yields for the PWM Project and the possible PWM Expansion, as proposed by others. In Exhibit 2, Figure 3, Hazen & Sawyer showed a decline in influent wastewater flow volumes from 2000 to 2013, and using that historic and incomplete influent data, they project 2014 through 2020 volumes using a trend line (linear extrapolation). The incorrect resultant wastewater flows in 2020 of 17,016 acre-feet per year (AFY) permeates into analysis throughout the remainder of the report. Figures on pages 12, 14, and 20 and associated text in Exhibit 2 are based on multiple inaccuracies (see also Surface Water Limitation which further falsify these charts). Actual flows since 2013 are shown below.

<b>Regional Treatment Plant Influent Wastewater Flows</b>	
<b>Year</b>	<b>Volume (in AFY)</b>
2014	21,695
2015	19,739
2016	20,474
2017	19,860
2018	18,810
2019	18,875
<b>Six-Year Average</b>	<b>19,909</b>

The inaccurate trend line result is then incorrectly reduced further using an erroneous correlative relationship. Hazen and Sawyer apply a wastewater volume reduction factor of 15.3% based on a trend of CalAm service area water demands. Wastewater flows to the Regional Treatment Plant (RTP) do not correlate to CalAm water demands for the following reasons:

- 1) the Monterey Peninsula, including the Marina Coast Water District (MCWD) water supply service area, comprises only approximately 46% of the influent flow to the M1W RTP;
- 2) CalAm's service area contains Pebble Beach, Carmel and vicinity, Carmel Valley none of which are included in M1W's service area; and
- 3) a substantial portion of the decline in Monterey Peninsula/CalAm demands are due to reduced outdoor irrigation which have no effect on wastewater flows.

The combined errors underestimate wastewater flows at the RTP by approximately 3,000 AFY.

#### *Source Waters for PWM Expansion*

Notwithstanding the above, the future amount of additional Agricultural Wash Water, Blanco Drain, and Reclamation Ditch available to the Pure Water Monterey Project depends on the satisfaction of conditions precedent contained in Section 16.15 of the *Amended and Restated Water Recycling Agreement* ["Water Recycling Agreement"] that would enable M1W to use those waters for agricultural irrigation in Salinas Valley.

The source water discussion for the possible PWM Expansion is complex due to the number of variables in the system. However, the document "Approved Pure Water Monterey Project and Proposed Modifications to Expand the PWM Project – Source Water Operational Plan" in Appendix M - Supplemental Environmental Impact Report (SEIR) provides a detailed analysis of source water to meet the possible PWM Expansion yield in all scenarios using the following:

- secondary effluent otherwise discharged to the ocean,
- one half of wastewater from outside the 2001 service area,
- waters committed in the Water Recycling Agreement (section 4.01 1(d)), and
- operating reserve (in a drought year if conditions precedent in Water Recycling Agreement Section 16.15 are not met).

There is disagreement from the M1W Board regarding adequacy of source waters for the PWM Expansion.

#### **PWM Project (Ian Crooks Letter)**

##### *Delays*

For the last six months, the PWM Project has been producing purified recycled water and recharging the Seaside Basin. As originally intended, the PWM Project is delivering the first new drinking water supply for North Monterey County in over a decade.

The Latham and Watkins letter to the Coastal Commission criticizes M1W for having scheduling delays on the PWM Project, as if the Cal-Am Monterey Peninsula Water Supply Project has not experienced any delays. Implementing a \$100+ million public works infrastructure projects in under seven years from conception to operation is a monumental success that should be celebrated by all local, regional, and State-level stakeholders, including Cal-Am.

*Injection Well Operational Problems and Solutions to Meet Yield Requirements*

The PWM Project planning, CEQA certification, permitting, and the Water Purchase Agreement (WPA) consisted of four deep wells and four shallow wells. Currently, there are two deep wells and two shallow wells, which was intended as a potential cost-saving measure for rate payers. Unfortunately, Mother Nature and the uncertainties of the local hydrogeology did not cooperate, such that the shallow wells have underperformed. It is anticipated the two existing deep wells, currently going through final commissioning, will eventually approach and possibly exceed their planned injection capacity. To ensure adequate long-term recharge capacity, a third deep well is being designed and is scheduled for operation by the end of 2021.

The PWM Project will complete delivery of its first 1,000 acre-feet to the Seaside Basin this week to meet the WPA operational reserve. The PWM Project water deliveries will then be used by CalAm to reduce Carmel River diversions. The original objective of an average of 3,500 AFY of groundwater injections for water supply is achievable with current plans to complete the third deep injection well. Upon completion of the next injection well, the Project is expected to achieve the 3,700 AFY injection yield pursuant to the WPA. An implementation schedule detailing the timelines for existing well improvements and the third injection well is attached as **Exhibit A**.

*Potential PWM Expansion Status*

The SEIR for a possible PWM Expansion was not certified by the M1W Board on April 27, 2020. Staff was directed to suspend work on any aspect of the PWM Expansion.

*Agricultural Source Water Issues*

The comment regarding the treatability of the Salinas industrial wastewater (SIWW) or "Agricultural Wash Water" in Latham and Watkins letter (page 4, last bullet) is incorrect. The SIWW has been successfully treated at the RTP and advanced water purification demonstration facility since 2013 and recently through the Advanced Water Purification Facility. M1W has met all regulatory water quality standards while treating SIWW.

The SIWW is a safe source water for the PWM Project. The Division of Drinking Water approved the use of SIWW as additional RTP influent after extensive review of its water quality and PWM pilot testing results, and with independent expert input from a National Water Research Institute Independent Advisory Panel. The SIWW flows presently are not needed to meet the PWM Project production goals or agricultural irrigation recycled water demands. Source water diversion volumes are not included in the monthly and quarterly reports, but they will be reported in the annual reports.

There is nothing controversial about the safety of the SIWW; its treatment challenges are conventional and manageable. Typical constituents are total organic carbon, biological oxygen demand and phosphate. Should satisfaction of conditions precedent contained in Section 16.15 of the Water Recycling Agreement not occur, Monterey County Water Resources Agency shall retain the right to utilize 100% of the SIWW.

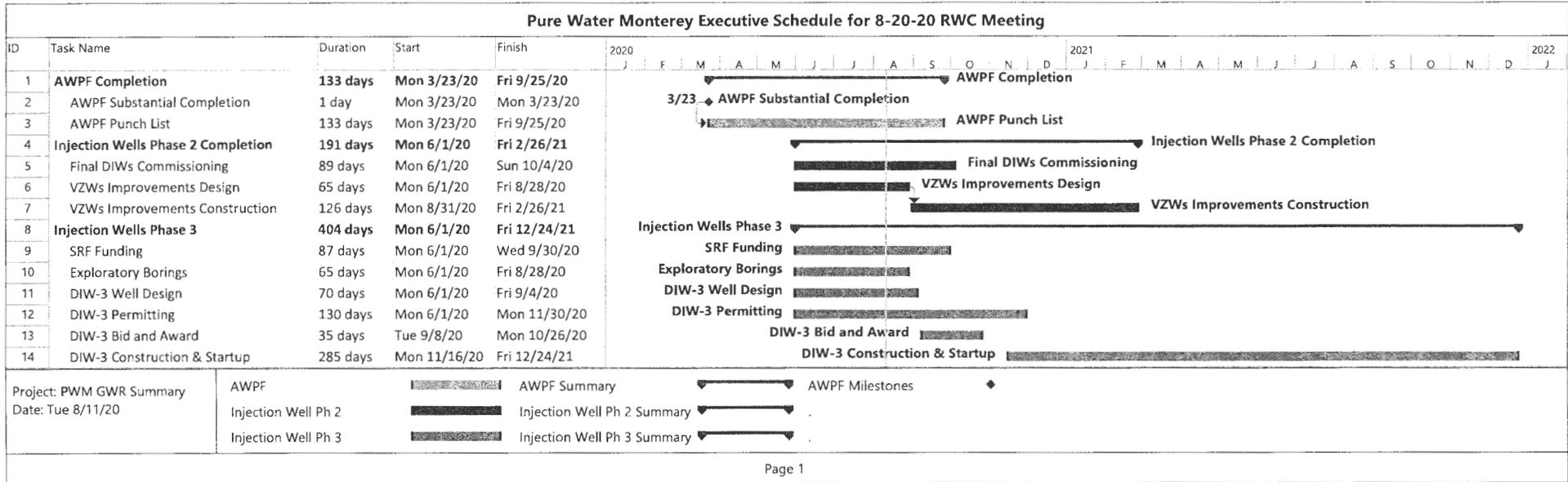
Please contact me if you have any further questions or require additional information.

Sincerely,



Paul A. Sciuto  
General Manager

Enclosure: Exhibit A. Pure Water Monterey Executive Schedule



Coastal Commission Testimony – Secretary for Environmental Protection,  
Jared Blumenfeld – August 12, 2020

**Background**

- Good morning, Chair Padilla and members of the Commission. Thank you for providing this opportunity to talk with you this morning.
- I asked for the time with you this morning in order to provide background and context related to the State Water Resources Control Board's efforts to protect the Carmel River and its threatened native fisheries from decades of unlawful diversions.
- Historically over 10,000 steelhead spawned in the Carmel River and over 1,700 returned to spawn in the 1970s.
- Due to development and unlawful diversions, only 129 steelhead were observed at Los Padres Dam in 2019.
- During the last drought, zero spawning steelhead were observed in the river for all of 2014, 2015, and 2016.
- The steelhead fishery in the Carmel River continues to be threatened.
- The lower 9.5 miles of river are seasonally dry in most years, in part due to the ongoing illegal diversions.
- While significant investments and improvements in habitat and removal of fish passage barriers (San Clemente Dam was removed in 2015) have helped create better conditions, there are still significant concerns for the fishery.
- In March of 2020, the Branch Chief for the National Marine Fisheries Science Central Coast Branch testified before this Commission that

overutilization of freshwater from the Carmel River continues to constrain steelhead habitat and migration.

- The main local water supplier, California American Water (Cal-Am) provides retail water supply to around 97,000 people in the Monterey Peninsula.
- Approximately 70% of Cal-Am's water supply comes from a series of wells drilled into the subterranean stream of the Carmel River.
- Cal-Am's water rights to Carmel River were approximately 3,400 acre-feet per year in 1995.
- At the time, Cal-Am was illegally diverting roughly 10,500 acre feet each year on top of their authorized diversions.
- Cal-Am has since obtained additional rights, but in 2019, Cal-Am still diverted about 2,700 acre feet a year without a valid right.
- The illegal diversions directly contribute to seasonal dewatering of more than 9 miles of river, which has contributed to the collapse of the native steelhead fishery on the river.

#### **State Water Board Actions**

- Over 25 years ago, in 1995, the State Water Board issued its first Water Right Order (WR 95-10) against Cal-Am for the illegal diversion of water from the Carmel River.
- Though Cal-Am and Monterey Peninsula communities have reduced per capita water consumption over time, significant unlawful diversion and use of water have continued, and continue today.
- When Cal-Am failed to stop its unlawful diversions, the Board issued a Cease and Desist Order in 2009 that provided a clear timeline to cease the illegal diversions.

- The Cease and Desist Order addresses the ongoing public trust impacts and lack of progress in finding an alternative source of water supply for the Monterey Peninsula sufficient to eliminate the illegal diversions from the Carmel River.
- The State Water Board's Order is focused on one goal: to cease the illegal diversions from the Carmel River for the protection of native fish, including steelhead, and other public trust resources.
- The Order called on Cal-Am, in coordination and cooperation with local stakeholders and agencies, to identify and develop a new alternative source of water supply.
- The Order also left the choice of what type of alternative supply project to Cal-Am and local stakeholders, recognizing that the local water supplier and community were best positioned to understand the needs, costs, and local conditions.
- The timelines in the 2009 Order (to cease all unlawful diversions by 2016) were not met.
- In 2016, the Board issued another order that extended the timeline for ceasing illegal diversions to the end of 2021.
- This provided Cal-Am and the local community another five years to develop a local solution and alternative source of water.
- In doing so, the Board recognized that clear milestones and targets were needed and that failure to meet those milestones could not forestall protection of the Carmel River and its public trust resources.
- The cease and desist order has also had the effect of limiting new housing development in the region as there is a moratorium on new water service connections.

- The Monterey Peninsula has maintained significant water conservation in light of ongoing unauthorized diversions.
- The terms and conditions of the cease and desist order will continue to apply until rescinded.
- The Water Board has signaled that future timeline extensions to cease the unlawful diversions from the River are unlikely to be granted.
- Cal-Am faces significant accrued and continuing penalties if it fails to comply.

### **The Water Supply Alternatives**

- By 2015, stakeholders had focused on two water supply projects: a recycled water project and a desalination project.
- The recycled water project, or Pure Water Monterey, which recently started production, received significant support and resources from the state.
- The State Water Board provided the following funding (all values rounded):
  - \$110 million from the Clean Water State Revolving Fund, at 1% interest.
  - \$15 million from the water recycling funding program construction grant (no repayment).
  - \$2.5 in Proposition 1 Stormwater Grant Funding (no repayment).
  - Pure Water Monterey has recently requested an additional \$6 million for construction of an injection well, which is currently under review.
- Pure Water Monterey is expected to produce up to 3,500 acre feet per year of water for Cal-Am, depending on how the project operates and performs. There have been reported issues with the performance capacity of the existing injection wells that reduces the expected yield.

- As you know, a desalination project has also been proposed, and its components within the Coastal Zone will be the subject of your hearing in September.
- That project would ultimately produce approximately 6,200 acre feet per year.
- But essential facilities, including intake and desalination plant structures, have yet to proceed beyond the design and permitting stage.
- In part that is because the Coastal Commission has not yet acted on Cal-Am's Coastal Development Permit application and appeal, which are before you next month.
- To date, the desalination project has not received funding from the Board but a funding application is pending.
- Based on what appeared at the time to be both strong support and agreement among Cal-Am and most local stakeholders and a feasible path to lawful water supplies by the end of 2021, the State Water Board's 2016 order set annual milestones based on completion of both of these projects.
- The California Public Utilities Commission has also issued necessary analyses, findings, and authorizations for Cal-Am to proceed with and obtain water supplies from these projects.

### **Further Delay Will Have Significant Impacts**

- Due to permitting delays, however, it is already clear that Cal-Am will not meet some future milestones laid out in the 2016 Cease and Desist Order.
- The 2016 Order requires drilling activity for at least one source well and construction of building foundations and 25% of transmission pipelines for the desalination project by September 30, 2020.

- Cal-Am will likely be able to manage to avoid severe restrictions even though it will miss the 2020 milestone.
- However, the final deadline of December 31, 2021, at which point all further illegal diversions from the Carmel River must stop, will be difficult or impossible to meet without the development of further alternative supplies.
- It is clear at this point that neither the proposed desalination project nor the proposed Pure Water Monterey expansion will be constructed and operating by then.
- The State Water Board and CalEPA continue to urge Cal-Am, the Monterey Peninsula community, and other water users and suppliers in the region, to consider how this final compliance deadline can still be met and sustained until a sustainable and long-term replacement water supply is developed.
- The Monterey Peninsula simply can no longer operate and grow by relying on unauthorized water supplies from the Carmel River.
- Further delay in securing alternative water supplies and ceasing unlawful diversions will only continue to add uncertainty, cost, and cause additional public trust impacts that threaten the existence of the Carmel steelhead fishery.
- By providing clarity in the Commission's actions next month, you will set a clear milestone of your own that is critical for resolving the ongoing supply challenges and disputes in the region.
- In summary, I urge you to commit to acting on the desalination project application in September for the benefit of local water users and the public trust resources that we all have an obligation to preserve, restore, and enhance.

- I would also like to offer each of you the chance to have briefings from State Water Board staff if you would like any additional background or information on their efforts over the last 25 years to protect the Carmel River.
- Thank you very much for your time.

### **Additional Background on State Water Board Water Right Actions and Alternative Supply Projects**

The State Water Board has issued three orders against Cal-Am over the last 25 years for illegally diverting from the Carmel River:

1. Order WR 95-10
  - Found Cal-Am was illegally diverting 10,730 AFA from the Carmel River, and ordered Cal-Am to obtain legal rights or find alternative water sources.
2. Order WR 2009-0060
  - Found Cal-Am was still diverting over 7,500 AFA; ordered Cal-Am to cease illegal diversions by the end of 2016.
  - Imposed a moratorium on new service connections and on increased water delivery to existing service connections that undergo significant changes.
3. Order WR 2016-0016
  - Found Cal-Am was still illegally diverting approximately 3,800 AFA
  - Extended Cal-Am's compliance deadline to the end of 2021.
  - Added milestones for the development of alternative water supplies, which included both a recycled water and desalination facility. To ensure that the *final* compliance deadline is met even if the water supply projects are not timely developed, the Order requires Cal-Am reduce its interim diversions by up to 1,000 acre-feet per year if the annual milestones are not met.

In general, the Orders require that Cal-Am cease all illegal diversions by the end of 2021, regardless of whether new water supply projects are built.

## **New Water Projects**

Cal-Am has focused on the development of a recycled water project and a desalination project to replace the illegal diversions.

1. Pure Water Monterey: an indirect potable reuse groundwater replenishment project. Expected to begin delivery in mid-2020, will supply approximately 3,500 AFA and create an approximately 1,000 acre-foot drought reserve (banked groundwater).
2. Proposed Monterey Peninsula Water Supply Project Desalination Facility: a desalination facility that would provide approximately 6,250 AFA to Cal-Am through use of slant well technology drilled below the ocean floor.



June 15, 2020

Mr. John Ainsworth  
Executive Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Via Email

**RE: Application No. 9-19-0918 and Appeal No. A-3-MRA-19-0034 (California American Water Company)**

Dear Mr. Ainsworth:

On behalf of the Monterey Peninsula Water Management District, we are writing to encourage the California Coastal Commission to deny the Coastal Development Permit for California American Water Company's proposed desalination facility.

- Pure Water Monterey (PWM) expansion is a feasible alternative to the desalination facility. PWM is an advanced water purification facility that is already producing water for potable supply. The expansion could be constructed in approximately 20 months.
- PWM expansion has less adverse environmental impact than the proposed desalination facility, and no new construction in the coastal zone.
- PWM expansion is more than sufficient to lift the Cease and Desist Order in our community. Based on the most recent pumping and demand history, only approximately 800 acre-feet per year (afy) of new supply is required to do so – at 2,250 afy PWM expansion is more than sufficient.
- Based on the report titled "*Supply and Demand for Water on the Monterey Peninsula*" adopted by the District on May 18, 2020, PWM expansion provides a new water supply sufficient to meet the future needs of the Peninsula for the next 20 to 30 years.
- While both proposed water supply projects meet the current and future needs of the Peninsula, PWM expansion will save the ratepayers approximately \$1 billion compared to desalination over a 30-year lifecycle.

Desalination can be looked at for providing the next increment of water needed on the Peninsula, and perhaps regionally, somewhere down the road when additional supplies appear to be required.

Thank you for your consideration of the District's position.

Sincerely,

The Board of Directors  
Monterey Peninsula Water Management District

**Luster, Tom@Coastal**

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**From:** MWChrislock <mwchrislock@redshift.com>  
**Sent:** Friday, June 12, 2020 8:25 AM  
**To:** Padilla, Stephen@Coastal; Bochco, Dayna@Coastal; Turnbull-Sanders, Effie@Coastal; Hart, Caryl@Coastal; Aminzadeh, Sara@Coastal; Brownsey, Donne@Coastal; Escalante, Linda@Coastal; Wilson, Mike@Coastal; Groom, Carole@Coastal; Rice, Katie@Coastal; Howell, Erik@Coastal; Uranga, Roberto@Coastal  
**Cc:** Luster, Tom@Coastal; Ainsworth, John@Coastal; CalAmMonterey@coastal  
**Subject:** Monterey Co. Electeds Letter referred to in Ms. Chrislock's public comment  
**Attachments:** SWRCB letter.docx

Since this cannot be handed out, attached is the letter from Monterey County Elected officials referred to in Melodie Chrislock's public comment June 12th.

**Letter from Monterey County Elected Leaders to the State Water Resources Control Board**

June 11, 2020

Signed by the following:

Senator Bill Monning, California State Senate, District 17  
Assemblymember Mark Stone, California State Assembly, District 29  
Jane Parker, Monterey County Supervisor District 4  
Clyde Roberson, Mayor of Monterey  
Ian N. Oglesby, Mayor of Seaside  
Bruce Delgado, Mayor of Marina  
Alison Kerr, Mayor of Del Rey Oaks  
Jason Campbell, Seaside City Council  
Jon Wizard, Seaside City Council  
Jenny McAdams, Pacific Grove City Council  
Tyller Williamson, Monterey City Council  
Alan Haffa, Monterey City Council  
Jeff Baron, Carmel City Council  
Tom Moore, Marina Coast Water District Board, President  
Jan Shriner, Marina Coast Water District Board, Vice President  
Matthew Zefferman, Marina Coast Water District Board  
Lisa A. Berkley, Marina City Council  
Gail Morton, Marina City Council, Mayor Pro Tem  
Regina Gage, Salinas Valley Memorial Hospital Board, Vice President

## Letter from Monterey County Elected Leaders to the State Water Resources Control Board

June 11, 2020

Joaquin Esquivel, Chair  
Board of Directors  
State Water Resources Control Board

Dear Chair Esquivel and Board Members:

As elected leaders in Monterey County, it is our responsibility to advocate for the economic and environmental well-being of our citizens. We were concerned to read the letter from your Executive Director Eileen Sobeck, to the California Coastal Commission that made several statements that need correction in regard to California American Water's proposed desalination plant.

We write to express our concerns about why this desalination plant is not the right solution for our region and should be set aside in favor of our Pure Water Monterey facility.

We support timely compliance with the SWRCB's Cease and Desist Order (CDO) on the Carmel River. Expansion of the Pure Water Monterey (PWM) recycling plant is the fastest way to meet the CDO. Cal-Am's desalination plant is not needed to meet the Peninsula's water demand and is rife with legal and environmental complications that will only further delay compliance.

Our PWM plant has now been celebrated by both the Newsom Administration and the Environmental Protection Agency for its innovative treatment of agricultural and municipal wastewater and its use of on-site landfill gas. PWM also comports with the SWRCB's policy to maximize water recycling in California.

### **The Pure Water Monterey is easily capable of meeting water demand on the Monterey Peninsula.**

The CPUC's 2018 decision to approve Cal-Am's desalination plant was based on antiquated data from 2007 to 2016 that assumed a demand of 14,000 acre-feet per year for the Monterey Peninsula.

Yet three recent studies and reports by local public agencies show the Monterey Peninsula's real water demand over the last five years is 9,825 AFY. These reports confirm that expanding Pure Water Monterey's current yield of 3,500 AFY by 2,250 acre feet would provide ample water to eliminate illegal diversions from the Carmel River and meet demand for at least 30 years.

In order to justify building a desalination plant that would yield an additional 6,200 AFY and over \$100 million in corporate profits, Cal-Am has disputed the 9,825 AFY demand figure. Yet in Cal-Am's current General Rate Case before the CPUC, Cal-Am's David Mitchell testified that our demand would be 9,338 AF in 2021, 9,478 AF in 2022, and 9,610 AF in 2023.

Despite the overwhelming evidence that the 14,000 AFY estimate is grossly inaccurate, Ms. Sobeck wrote,

"Even though actual water use within Cal-Am's Monterey District service area in recent years has been lower

than the Public Utilities Commission's estimated current demand, State Water Board staff does not have a basis for concluding that the Public Utilities Commission's prior analysis and determinations regarding the water demand, sizing, reliability, or diversity of supply were unreasonable, invalid, or outdated."

Such a conclusion suggests an unfortunate bias in favor of a project that our constituents do not need and cannot afford. After the Coastal Commission staff recommended denial of Cal-Am's desalination permit last November, Cal-Am and its allies launched a sabotage campaign to derail the expansion of Pure Water Monterey.

Unfortunately, Ms. Sobek's letter was recently used by Cal-Am and its allies on the Monterey One Water board as arguable rationale for their ongoing effort to deny approval of the final SEIR for the PWM expansion. Despite their efforts, we remain confident that the PWM Expansion will be approved.

We urge the Board to seriously consider the devastating consequences that an unnecessary desalination plant would have on the people and the environment of the Monterey Peninsula.

Environmentally, Cal-Am's desal plant would destroy 7 acres of Marina's beautiful coastal dunes. This desal plant would use a massive 38,000-megawatt hours of power from PG&E and become the region's largest emitter of greenhouse gases on the coast at a time when climate change is getting worse. The plant also creates gross environmental injustice for the lower-income, predominantly minority communities of Marina and Seaside.

Groundwater rights issues have not been addressed. Cal-Am's desalination plant would draw up to 17,300 AF from the already overdrafted Salinas Valley Groundwater Basin. Under the SGMA definition of groundwater, most of the desal's source water is groundwater. Cal Am has no legal right to this water and the Agency Act prohibits exportation of groundwater from the Basin. Moreover, the project will - by design - exacerbate seawater intrusion, which endangers Marina's long-term water supply. It will also lower groundwater levels in the Dune Sand Aquifer, adversely impacting groundwater dependent ecosystems in the project area, including Coastal wetlands.

Economically, Cal-Am's desal would cost \$1.2 billion over 30 years compared to \$190 million for the Pure Water Monterey Expansion. Constructing and financing the desalination plant would double water bills when our constituents already pay some of the highest water bills in the nation. This increase would make the cost of living and doing business here unaffordable and would undoubtedly force residents and small businesses to leave our region. And this would make economic recovery from Covid-19 even more difficult.

Because of all these potential obstacles our local public agencies, despite Cal-Am, have worked together to solve our water supply problem with the Pure Water Monterey project and its proposed Expansion.

As it currently stands, Cal-Am only needs an additional 800 AFY to fully comply with the Cease and Desist order and the Seaside Basin overdraft payback. The additional 2,250 AFY from the Pure Water Monterey Expansion can easily provide this. Spending \$1.2 billion for a desal plant is not warranted.

All that stands in the way of the Expansion of Pure Water Monterey is Cal Am's refusal to sign a Water Purchase Agreement. The CPUC has the power to move this solution forward by requiring Cal-Am to purchase the necessary replacement water from the Pure Water Monterey Expansion. Problem solved.

We urge your agency to support this solution.

Respectfully,

*Senator Bill Monning, California State Senate, District 17*  
*Assemblymember Mark Stone, California State Assembly, District 29*  
*Jane Parker, Monterey County Supervisor District 4*  
*Clyde Roberson, Mayor of Monterey*  
*Ian N. Oglesby, Mayor of Seaside*  
*Bruce Delgado, Mayor of Marina*  
*Alison Kerr, Mayor of Del Rey Oaks*  
*Jason Campbell, Seaside City Council*  
*Jon Wizard, Seaside City Council*  
*Jenny McAdams, Pacific Grove City Council*  
*Tyller Williamson, Monterey City Council*  
*Alan Haffa, Monterey City Council*  
*Jeff Baron, Carmel City Council*  
*Tom Moore, Marina Coast Water District Board, President*  
*Jan Shriner, Marina Coast Water District Board, Vice President*  
*Matthew Zefferman, Marina Coast Water District Board*  
*Lisa A. Berkley, Marina City Council*  
*Gail Morton, Marina City Council, Mayor Pro Tem*  
*Regina Gage, Salinas Valley Memorial Hospital Board, Vice President*

Cc:

Eileen Sobeck, California Water Boards  
Jennifer Epp, California Water Boards  
Michael Lauffer, California Water Boards  
Steven Westhoff, California Water Boards  
John Ainsworth, Coastal Commission  
Tom Luster, Coastal Commission  
California Coastal Commission  
California Public Utilities Commission  
Wade Crowfoot, California Natural Resources Agency  
Mark Gold, California Natural Resources Agency  
Thomas Gibson, California Natural Resources Agency  
Scott Morgan, Department of Water Resources  
David Sandino, Department of Water Resources  
Mathew Dumloa, Office of Lieutenant Governor Eleni Kounalakis  
Jennifer Lucchesi, State Lands Commission  
Jared Blumenfeld, California Environmental Protection Agency



**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

**NATIONAL MARINE FISHERIES SERVICE**  
West Coast Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-4731

May 22, 2020

Refer to NMFS No: WCRO-2017-7369

John Ainsworth  
Executive Director  
California Coastal Commission  
45 Fremont Street #2000  
San Francisco, California 94105  
John.Ainsworth@coastal.ca.gov

Re: NMFS' Comments on the Issuance of a Coastal Development Permit to California American Water Company to Construct and Operate a Desalination Facility Located Inland of the Coastal Zone (Application No. 9-19-0918, Appeal No. A-3-MRA-19-0034)

Dear Mr. Ainsworth:

This letter is in reference to the California Coastal Commission's (Commission) pending decision on the issuance of a Coastal Development Permit to California American Water Company (Cal-Am) for the construction and operation of the Monterey Peninsula Water Supply Project (MPWSP). NOAA's National Marine Fisheries Service (NMFS) is particularly concerned with the Commission's recent Staff Report that recommended denial of permits to Cal-Am for the MPWSP, and how the potential denial may affect streamflow and fisheries recovery in the Carmel River basin. NMFS is the federal agency responsible for managing, conserving, and protecting living marine resources in inland, coastal, and offshore waters of the United States. We derive our mandates from numerous statutes, including the Federal Endangered Species Act (ESA). The Carmel River supports a population of the federally threatened South-Central California Coast (S-CCC) steelhead (*Oncorhynchus mykiss*) Distinct Population Segment (DPS). NMFS identified the Carmel River as a Core 1 population (highest priority) for the recovery of the S-CCC DPS because of its size, location along the coast, and for its ability to serve as a source population for smaller, neighboring populations of the DPS (NMFS 2013).

For the past 100 years, the primary source of freshwater for the Monterey Peninsula region has been the Carmel River. Overutilization of freshwater in the Carmel River basin from groundwater extraction and surface water diversions contributed to the substantial decline of steelhead in the watershed and their listing under the ESA in 2006. Freshwater overutilization in the Carmel River Basin continues to be a very high threat to the recovery of the Carmel River steelhead population (NMFS 2013). This prompted the State Water Resources Control Board (SWRCB) to issue a Cease and Desist Order (CDO) to Cal-Am in 1995, which was updated in 2016 (SWRCB 2016). Currently, Cal-Am may withdraw up to 8,310-acre feet per year from the Carmel River with certain exceptions and adjustments as outlined in the CDO. By December 31, 2021, under full compliance of the CDO, Cal-Am's diversions from the Carmel River basin would be reduced to 3,376 acre-feet per year.



The overutilization of freshwater from the Carmel River constrains steelhead migration and suitable habitat in the Carmel River. In most years, as a result of freshwater extractions, up to 9.5 miles of the lower river dries by the summer/fall, thereby eliminating considerable portions of juvenile steelhead rearing habitat. Consequently, juvenile steelhead must be rescued from these drying reaches and reared at the Sleepy Hollow Rearing Facility until water conditions are suitable for steelhead to be relocated back to the river. Impaired groundwater elevations and drying of the lower river also curtails steelhead adult and smolt migrations by restricting their ability to transit through a critical migration corridor in late spring and early summer. Finally, reduced flow durations in the lower river have restricted access to and impaired habitat conditions within the lagoon. Reducing Cal-Am's diversions from the Carmel River to 3,376 acre-feet per year, per the CDO, is expected to alleviate these impacts and significantly aid in the recovery of the population.

Reducing water extractions from the basin through the development of a diverse and sustainable water supply portfolio is paramount to recovering steelhead in the Carmel River. To this end, NMFS has supported several regional projects aimed at meeting the terms of the CDO and improving instream flows of the Carmel River. These projects include Aquifer Storage and Recovery, the Pure Water Monterey, and Cal-Am's MPWSP (desalination project). We are concerned that the Commission's recommended denial of permits for Cal-Am's MPWSP and Commission staff's indicated desire for Cal-Am to withdraw its application fails to consider the implications to steelhead recovery if the project was not allowed to proceed at its projected timeline. The MPWSP was identified in the CDO as a critical step towards Cal-Am reliably reducing their extractions from the Carmel River, and thus a critical step in recovering steelhead in the watershed. We question whether the alternative supply options alone (i.e., without the MPWSP) could provide a reliable and sustainable water supply within a similar timeline as the MPWSP that will meet future municipal demands and protections for steelhead and their habitat.

In consideration of the dire consequences to steelhead recovery if a reliable and sustainable water supply alternative is not implemented in the near future, we request that the Commission rely on the best available information to make a final decision in August 2020.

We are available to meet with the Commission to discuss this important issue. If you have questions regarding this letter, please contact Mandy Ingham at (831) 460-7580 or at [Mandy.Ingham@noaa.gov](mailto:Mandy.Ingham@noaa.gov).

Sincerely,



Alecia Van Atta  
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cc: [via email only]

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