



March 1, 2013

Ms. Barbara Evoy
Deputy Director, Division of Water Rights
State Water Resources Control Board
PO Box 2000
Sacramento, CA 95812-2000

Dear Ms. Evoy:

This letter follows our March 8, 2013 meeting where we discussed an unusual and unfortunate situation related to Cal-Am's interpretation and implementation of WR 2009-0060 that interferes with water savings that might otherwise be achieved through conversion of existing commercial water use sites to mixed use commercial/residential water use.

This concern arises by Cal-Am's interpretation of SWRCB Order WR 2009-0060 with respect to Ordering Paragraph 2, which states:

2. Cal-Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use. Cal-Am may supply water from the river for new service connections or for any increased use at existing service addresses resulting from a change in zoning or use after October 20, 2009, provided that any such service had obtained all necessary written approvals required for project construction and connection to Cal-Am's water system prior to that date. [Footnote 47.]

Footnote 47 referenced in Paragraph 2 provides:

Multiunit residential, commercial or industrial sites may currently be served by a single water meter. The installation of additional meters at an existing service will not be viewed as a new service connection provided that the additional metering does not result in an increase in water use. Metering each unit of a multiunit building tends to increase accountability in the use of water and the effectiveness of water conservation requirements.

Condition 2 and its Footnote 47, as interpreted by Cal-Am, results in several unfortunate and unforeseen consequences. Cal-Am refuses to install new meters even when the water for those meters would derive from a site that is undergoing the renovation of an existing structure and existing water use, if the end result calls for addition of either a commercial meter or a residential meter that did not previously exist at the same service location. This sort of renovation may result if the structure experienced damage (e.g. fire damage), or if the site was the location of

undesired ongoing activities (e.g. a problematic nightclub/lounge). Such efforts have been frustrated even though property owners and City planners desire to convert the existing properties from commercial use to mixed commercial/residential use. Cal-Am will not allow these renovation activities if they require installation of separate water meters, even when the result will cause a reduction from current water use. Cal-Am also is concerned that the consequential service address may differ from the prior address, even though the physical location has not changed. (This latter can result from post office identification reasons, and to ensure differentiation of those responsible for the separate bills that shall result from the water meters.)

Cal-Am's interpretation frustrates the intent of WR 2009-0060. The net effect of the proposed projects would decrease use of water at existing water service locations. This can only be accomplished, however, by installation of separate residential and commercial water meters to replace the single existing commercial meter. Separate meters are required by MPWMD and are needed to properly code commercial/residential water use, apply the appropriate commercial or residential tiered rate structure, monitor conservation by class, and implement the appropriate rationing protocol, as may be needed. This proposal shall not change the location upon which the water use is to occur.

While Order WR 2009-0060 provides at Paragraph 3b that "Either Cal-Am or the MPWMD may petition the State Water Board Deputy Director for Water Rights for relief from annual reductions imposed under condition 3, a (2)." This letter of request does not seek relief, but a common sense interpretation to facilitate further reductions in existing water use.

Specifically, MPWMD asks the SWRCB to confirm its understanding as to the meaning and proper interpretation of 2009-0060 Paragraph 2 by amending its April 2012 letter from Barbara Evoy to California American Water – Monterey in the following manner:

- a) For purposes of interpreting a "change of use" only local land use authorities will be considered, not MPWMD's defined term "Change of Use";
- b) A meter split at an existing site to convert existing commercial water use to residential water use, and vice versa, may be allowed provided the aggregate use from all resulting split meters does not exceed prior water use served by the single water meter;
- c) Creation of a new service address at an existing site by subdividing or remodeling shall not constitute a "new connection" so long as there is no increase in water use to the site; and
- d) Replacing a meter to a site that previously had service does not constitute a "new connection" so long as there is no increase in water use to the site.

This common sense interpretation will facilitate the water conservation goal enunciated in Section 16.5 of WR 2009-0060, set forth at page 43. This provision acknowledges that "Retrofits are required for all title changes and for use and expansion changes." The proposed

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meter split would result in this mandatory retrofit, and cause retrofit water savings that might not otherwise be realized. Thus, the interpretation urged above will further achieve SWRCB objectives as stated in Section 16.5, “We conclude that water saved by retrofitting properties should be used to reduce Cal-Am’s diversions from the river.”

If the SWRCB does not clarify the meaning of Condition 2, Cal-Am’s interpretation shall preclude renovation of existing structures that can reduce water use. Ironically, the consequence “locks in” a larger increment of existing commercial water use, despite the fact that property owners, cities and MPWMD alike see these renovation sites as offering the opportunity to reduce existing water demand through conversion of existing commercial uses to mixed commercial/residential uses. All that is needed to achieve these water savings is to allow Cal-Am to install separate water meters where the aggregate post meter-split use does not exceed water use provided by the prior single water meter.

Sincerely yours,



David J. Stoldt
General Manager
Monterey Peninsula Water Management District