



**MONTEREY PENINSULA
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News Release

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**COURT LIFTS STAY ON STATE WATER BOARD CEASE AND DESIST
ORDER – RESTRICTIONS ARE NOW IN EFFECT
Mandatory Rationing Not Likely This Year Due to Low Water Use to Date**

San Jose, CA: The Santa Clara County Superior Court (Judge Kevin Murphy presiding) ruled today to lift the stay on Order WR 2009-0060, known as the Cease & Desist Order (CDO), issued by the State Water Resources Control Board (SWRCB) in October 2009. This action reversed the stay of the CDO imposed by the Monterey County Superior Court at the request of the Monterey Peninsula Water Management District (MPWMD or District) in November 2009. Judge Murphy based his ruling primarily on the belief that the CDO would not cause “irreparable harm” to the community between now and the conclusion of the litigation.

The CDO is now in effect and will remain in effect until litigation filed against the SWRCB by MPWMD, California American Water (Cal-Am) and other parties is resolved by the court. In related action, Judge Murphy consolidated the lawsuits brought by MPWMD and Cal-Am; the Cal-Am action was transferred to Santa Clara County consistent the SWRCB motion to transfer the matter outside of Monterey County.

According to Darby Fuerst, MPWMD General Manager, many people are concerned about what the CDO means in the short-term and long term, especially as it relates to water rationing. Fuerst explained that key components of the CDO require that Cal-Am: (a) must fully reduce its unlawful diversions from the Carmel River by the year 2016; (b) may not set water meters for new construction or remodels that intensify use; and (c) must not divert more than 10,429 acre-feet per year (AFY) from the Carmel River in Water Year 2010, defined as October 1, 2009 through September 30, 2010. This amount is about 856 acre-feet, or 7.6%, less than Cal-Am was allowed to pump from the river last year. This pumping limit will become smaller in successive future years.

“The good news,” said Fuerst, “is that community water use to date in Water Year 2010 is well below the CDO limit. I am confident that mandatory rationing will not need to be imposed.” Fuerst

cited the combination of above-normal rainfall and below normal economic activity, as well as extensive conservation education and outreach by MPWMD and Cal-Am for significantly reduced water use the first seven months of Water Year 2010. However, he warned that the U.S. Open in June 2010 and the dry summer ahead could possibly change his view.

“District regulations require us to go directly to Stage 5 mandatory rationing unless there is credible evidence to show that a lower conservation stage can enable us to meet the CDO limits; we also have 90 days to assess what stage of rationing is appropriate and to gear up for that program. Thus, we are not taking any action to impose mandatory rationing in the next few months.”

When asked if the District is still issuing water permits, Fuerst explained that the CDO is not directed against MPWMD or any other agency such as a city. “Yes, we are issuing permits until directed otherwise by our Board of Directors. However, we are advising all applicants that Cal-Am is under order to not to connect meters to any new projects or remodels that intensify water use pursuant to the CDO. Thus, there is a risk that an applicant may not get water even if he or she has a District permit.”

Fuerst noted that the CDO also requires Cal-Am to work on smaller water supply projects that can be implemented in the near-term. “On a positive note, MPWMD and Cal-Am are successfully injecting record amounts of Carmel River water into the Seaside Groundwater Basin this year via two Aquifer Storage and Recovery (ASR) wells, and we are working together to expand that program. Also, there has been significant forward progress on a regional water supply solution this past year.”

As background, on October 27, 2009, MPWMD filed a lawsuit challenging SWRCB Order WR 2009-0060 on the grounds that the CDO is flawed, would jeopardize public health and safety, and would damage the local economy. The CDO prescribes a series of significant cutbacks to the community water supply through the year 2016. The CDO is actually directed against Cal-Am, but MPWMD took action because 95% of the people who live within the MPWMD service area are Cal-Am customers, and MPWMD operations would also be adversely affected. The trial on the merits of this action will be based upon the administrative record developed in hearings held before the State Water Board. It is anticipated that a ruling on the lawsuits will occur before the end of this calendar year.

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