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State of California – The Resources Agency

ARNOLD SCHWARZENEGGER, Governor

## DEPARTMENT OF FISH AND GAME

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June 7, 2006

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MPWMD

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Dear Ms. Stern:

Monterey Peninsula Water Management District (MPWMD)

Initial Study and Notice of Intent to

Adopt a Negative Declaration for Application to

Create St. Dunstan's Water Distribution System,

Application #20031208DUN for APN 416-024-014 and 416-522-005,  
 at 28003 Robinson Canyon Road, Carmel Valley, Monterey County

Department of Fish and Game (DFG) personnel have reviewed the Initial Study and Proposed Negative Declaration (IS/ND) for this project. This project proposes to eliminate CalAm commercial water service to the existing parcels and replace that service with a new Water Distribution System (New Well) operated by St. Dunstan's Church (Applicant). This change is proposed to accommodate the additional water needs of the Applicant due to: 1) expansion of the building from 6,500 square feet to 10,000 square feet; and 2) increase water needed to meet irrigation demands of additional landscaping. Currently the facility uses 1.6 acre-feet (af) of CalAm water, and it has been calculated that the project expansion will require an additional 6 af of water for a total diversion of 7.6 af to be provided by the New Well. Staff discussed this project with MPWMD on May 24, 2006 to confirm that this project intends to divert additional or "new" water from the Carmel Basin on a year-round basis with the highest rate of diversion occurring during the dry season to meet increased landscape irrigation needs.

DFG has previously documented its concerns about the potential impacts to public trust resources resulting from existing and new diversions from the Carmel River and the Carmel Valley Alluvial Aquifer. The adverse impacts to public trust resources, including listed species, resulting from diversions within the Carmel Basin are well documented and are clearly more than just local concern<sup>1</sup>.

<sup>1</sup> Considering the significance of the adverse impacts to sensitive resources from over-pumping within the Carmel River Basin, this project meets the requirements of CCR § 15206 (b) 5 for projects of statewide, regional or area wide significance. It, and other projects proposing additional diversions within the Carmel Basin, should not be considered only of "local interest." This would allow circulation through the State Clearinghouse without a reduced review period and ensure that adequate time is allowed for comments to be provided.



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The cumulative impacts to resources resulting from pumping are so clearly recognized that restrictions and agreements are already in place to prevent increased pumping. State Water Resources Control Board (SWRCB) Water Right Order 95-10 and a Conservation Agreement with National Marine Fisheries Service (NOAA Fisheries) (intended to reduce adverse impacts to sensitive species by reducing diversions by CalAm from the Carmel Basin) do not allow CalAm to increase its diversion to serve the Applicant's expanded water needs. This has resulted in the project proposal to develop the New Well to satisfy the new demand. However, shifting the increased diversion activity away from the CalAm wells to the Applicant's New Well does nothing to reduce or eliminate the impacts of increasing local diversions especially in the critical dry season. Simply changing who is pumping, to avoid the limitations and restrictions already in place to protect the environment, does not reduce the impacts or support the finding that this new diversion has a less-than-significant impact.

There is substantial evidence in the record that pumping in the vicinity of the proposed project has a significant adverse impact on the environment and the sensitive species it supports. While the IS disclosed that the well would "cumulatively contribute" to extraction from the basin, the impact is dismissed because: 1) the "relatively low water use from the proposed well"; and 2) "the hydrologic regime in dry periods is controlled by much larger well production in the vicinity, including two major CalAm wells." Unfortunately, this sidesteps the issue of why a "new" diversion by the Applicant would not be considered "cumulative considerable" when resource protection agreements in place consider *any* new diversions by CalAm a significant effect on the environment when viewed in connection with the effects of all the other diversions.

In seeking a long-term solution to this problem, NOAA Fisheries, with review by DFG and MPWMD, released a policy paper entitled *Instream Flow needs for Steelhead in the Carmel River; Bypass flow recommendation for water supply projects using Carmel River waters, June 2002* (NOAA document). The NOAA document<sup>2</sup> established specific bypass flows for new projects to ensure that, as the problems of over-pumping in the Carmel Basin are being resolved with CalAm, no new diversions are developed that would be counter to the efforts to restore flows to protect the resources. In addition to prescribing bypass flows to ensure that restoration of flows will occur and be sustained, the document recommends a restriction for the dry season that "no new diversions be permitted, authorized, or otherwise sanctioned for the period June 1 to October 31." Approval of any diversions without inclusion of the mitigation recommendations in the NOAA' document for bypass flows/pumping restriction only serve to increase the over-pumping impacts that the agencies are attempting to reverse. Without the inclusion of appropriate mitigations, any new diversion project represents cumulative considerable effects on the environment.

There are no mitigations proposed to assure that the terms of this well permit would be consistent with achieving the long term goals of resource protection that precludes

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<sup>2</sup> This document can be found at <http://swr.nmfs.noaa.gov/hcd/policies/Carmel%20Flows.pdf>

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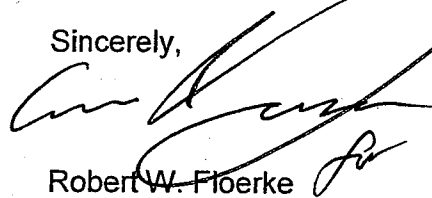
CalAm from serving the facility. The flow preservation/restoration to be provided under WRO 10-95 and the Conservation Agreement restricting the ability of CalAm to serve additional water requests are intended to support public trust resources, not provide water for additional diversions that will perpetuate adverse impacts to these resources while CalAm reduces their impacts. As stated in the IS/ND, the agreements between CalAm and NOAA and between CalAm, NOAA, DFG and MPWMD, focus on preserving year-round river flow as far downstream as possible. However, these efforts are to provide flow to protect the public trust and are not intended to make additional water available for diversions.

In summary, DFG believes that the ND is inappropriate because the proposed project will result in and contribute to the continuation of significant impacts to the environment. No mitigations or project changes are proposed to avoid or reduce the significant impacts of this new water diversion. Potentially feasible project revisions and mitigations could include: 1) delaying expansion until alternative water sources are available; 2) drastically reducing the amount of landscaping water required so that all additional diversions can be eliminated; or 3) permitting pumping at the New Well only when the diversions would follow recommendations in the NOAA document. DFG recommends that this IS/ND be withdrawn and revised to include appropriate analysis and mitigation. Additionally, DFG is concerned that any permitting of individual wells by MPWMD outside the terms of the NOAA recommendation are contrary to the long term solution developed for this basin. These projects should be circulated through the State Clearinghouse to ensure an appropriate review and comment period.

Please also be advised this project will result in changes to fish and wildlife resources as described in the California Code of Regulations, Title 14, Section 753.5(d)(1)(A)-(G). Therefore, a de minimis determination is not appropriate, and an environmental filing fee as required under Fish and Game Code Section 711.4(d) should be paid to the Monterey County Clerk.

If you have questions about these comments, please contact Ms. Linda Hanson, Staff Environmental Scientist, at (707) 944-5562; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,



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Regional Manager  
Central Coast Region

cc: See next page

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