



September 12, 2013

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

Dear Barbara:

Thank you for meeting with Mayor Burnett and myself on August 28<sup>th</sup>. I very much appreciate your staff giving consideration to our concerns over facilitating projects where there is no intensification of water use.

John O'Hagan called this week to check status, so I wanted to close the loop with you on next steps as a result of our meeting:

I have reached out to Cal-Am to choose some dates for a meeting with your staff and us. Perhaps that is something we could schedule half-way, such as Tracy or Oakland?

We are still in some disagreement with you over the proposed treatment of "baselines" and would like to provide some specific examples with respect to calculating a baseline, monitoring, and enforcement. It is our hope that you do not advance a revision to your April 2012 interpretive letter until we chat further.

Finally, we raised the need to clarify issues embedded in the CDO related to local water supply projects. Specifically, Section 19.2 of the CDO states that a community that develops a new source of supply must first apply the water against its share of the illegal diversions. This raises several questions:

- This concept did not seem to find its way into the Order. If it is not within the Order, is it a requirement?
- Jim Kassel highlighted Section 3a.(5) as dealing with with this issue, but that section refers to Condition 4 of the Order. This appears to be a mistaken reference, and perhaps meant to refer to Condition 5 of the Order which addresses the small project requirement. If it does refer to Condition 5, that requirement has been met by the second phase of the ASR project, so does not refer to new local projects that might be undertaken by a city. Hence, it appears the Order does not address the Section 19.2 issue there.
- If Section 19.2 were somehow enforceable, which is questionable based on how the Order is crafted, it provides no incentive for a local jurisdiction to invest in a project. If

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our jurisdictions were to agree to some measure of enforceability, is there some middle ground whereby a jurisdiction can gain the use of a portion of its new supply and apply the remaining portion to the illegal diversions from river until the time the CDO is lifted? This would incentivize local small projects.

- If a new non-potable supply is found that takes large irrigated spaces off the Cal-Am potable supply in order to save money spent on Cal-Am rates, shouldn't the freed-up water be able to be available for another use in the jurisdiction, since there would be no increase in use?

We look forward to continuing our dialog on these topics.

Sincerely yours,



David J. Stoldt  
General Manager

cc: John O'Hagan  
Jim Kassel  
Stephanie Pintar  
David Laredo  
Eric Sabolsice  
Jason Burnett