

Submitted by Luke Coletti, 3/15/18  
Item 13

Re: MPWMD-Board-Meeting-Agenda-March-19-2018 (Item 13 - Consider Adoption of Resolution 2018-05 Regarding State Water Resources Control Board Order WR 2009-0060)

LC Luke Coletti  
Thu 3/15, 2:06 PM

Reply all |

lewis4water@gmail.com; andympwmd@gmail.com; water@mollyevan+13 more

Label: 120 Day Delete (4 months) Expires: 7/13/2018 2:06 PM



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MPWMD Board Members,

The attached screenshot clearly indicates that the two SWRCB guidance letters, regarding the interpretation of CDO Condition 2, are not available to the public (your constituents) via the District's website (see link below). Indeed, I have followed this issue for years and they have \*never\* been made available to the public.

<http://www.mpwmd.net/CDO/FinalCDOPage.htm>  
<http://www.mpwmd.net/resources/document-library/>

Thank you for your consideration,

Luke Coletti  
Pacific Grove

On 3/15/18 1:04 PM, Luke Coletti wrote:

**Final Order 2016-0016 Issued by the State Water Resources Control Board  
on July 19, 2016 - Amending Order WR-2009-0060**

**and**

**Final Cease and Desist Order WR 2009-0060 Issued on October 20, 2009**

*Updated 8/30/2016*

**Final Order WR 2016-0016 – CDO Extension/Modification – Issued July 19, 2016**

July 19, 2016 [Order WR 2016-0016](#) – Order Amending in Part Requirements of State Water Board Order WR 2009-0060

May 20, 2016 [Letter from the Public Utilities Commission Expressing Support](#) for the Application to Modify

[April 28, 2016 Amended Application to Modify](#) the State Water Resources' Control Board Order 2009-0060 to Extend the Deadline to Terminate all Unlawful Diversions from the Carmel River from December 31, 2016 to December 31, 2021.

**Final Order WR 2009-0060 Issued October 20, 2009**

Feb 2, 2011, 3:00 PM -- [Frequently Asked Questions and Answers](#) about the Cease and Desist Order

**California Public Utilities Commission – Decision 11-03-048 – Moratorium in Monterey Division**

March 28, 2011 [Final Decision of CPUC](#) Directing Tariff Modifications to Recognize Moratorium Mandated by State Water Resources Control Board

May 27, 2010 [Amended Application of California-American Water Company](#) to CPUC for an Order Authorizing and Imposing a Moratorium on Certain New or Expanded Water Service Connections in its Monterey District

May 2010 [Application of California-American Water Company](#) to CPUC for an Order Authorizing and Imposing a Moratorium on Certain New or Expanded Water Service Connections in its Monterey District

[April 23, 2010 Declaration](#) of Darby Fuerst Delaying Implementation of Stage 5 Water Rationing

April 22, 2010 Press Release – [Court Lifts Stay on SWRCB Cease and Desist Order](#) – Restrictions Are Now in Effect

[November 24, 2009 Press Release](#) – Court Confirms Stay of SWRCB Order 2009-0060

[November 2, 2009 Court Order](#) Granting a Stay of Order 2009-0060

[November 2, 2009 Declaration](#) of Darby Fuerst Delaying Implementation of Stage 5 Water Rationing

[October 27, 2009 Verified Petition](#) for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief; and Request for Stay

**Final Order WR 2009-0060 dated October 20, 2009**

[http://www.swrcb.ca.gov/waterrights/board\\_decisions/adopted\\_orders/orders/2009/wro2009\\_0060.pdf](http://www.swrcb.ca.gov/waterrights/board_decisions/adopted_orders/orders/2009/wro2009_0060.pdf)

**Draft Orders Issued in 2008 and 2009**

[MPWMD September 30, 2009 Letter to SWRCB](#) – Comments on September 2009 Revised Draft Order

Revised Draft Order Issued September 2009 – [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/hearings/caw\\_cdo/docs/revdraftorder091609.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/caw_cdo/docs/revdraftorder091609.pdf)

[MPWMD August 26, 2009 Letter to SWRCB](#) – Comments on January 2009 Draft Order

Draft Order Issued January 2008 and all documents posted to the proceeding dating back to January 2008 – [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/hearings/caw\\_cdo](http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/caw_cdo)

MPWMD Board Members,

I am asking you to carefully review the proposed resolution (links below) that asks you to willfully defy Condition 2 of Water Rights Order 2009-0060 (Cal-Am CDO). I have alerted the State Water Resources Control Board as well (attached correspondence, below).

<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13.htm>  
<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13-Exh-A.pdf>

Public comments (including those from MPWMD) regarding Condition 2 can be found on the SWRCB website (see link below).

[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/)

Here is a list of my own comment letters:

[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/docs/coletti\\_011717.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_011717.pdf)  
[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/docs/coletti\\_032717.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_032717.pdf)  
[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/docs/coletti\\_041917.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_041917.pdf)  
[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/docs/coletti\\_08142017.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/coletti_08142017.pdf)

Mr Stoldt is being particularly disingenuous in Finding #8 of the proposed resolution, where he claims:

"SWRCB board members, expressed concern that the SWRCB staff interpretive letter of April 9, 2012 was not in the public record and had not been subject to any public review or hearing process."

This is a complete fabrication. Instead, the Deputy Director of Water Rights, Barbara Evoy, stated that the District had long known about the State's interpretation of Condition 2. Perhaps Mr Stoldt can explain why the SWRCB's guidance letters and CPUC's decision (see links below) have \*never\* been presented to the public (your constituents) via the District's website! The fact is your General Manager has intentionally withheld information from the public in an attempt to manipulate the interpretation of Condition 2.

[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/docs/swrcb040912resp.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/swrcb040912resp.pdf)  
[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/docs/swrcb040912resp.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/docs/swrcb040912resp.pdf)

[can\\_water\\_company/docs/swrcb053113resp.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/134272.PDF)  
[http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/FINAL\\_DECISION/134272.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/134272.PDF)

At the July 19, 2016, SWRCB meeting Chair Marcus stated that she didn't want to see Condition 2 go away and that it was not an unusual enforcement tool. She also stated that Condition 2 was "meant to be inconvenient", especially in the context of an ongoing violation spanning over 20 years! Board Member Moore also acknowledged the importance of maintaining Condition 2, which focuses the community on working together. I urge all of you to view the video of the July 19, 2016, SWRCB meeting (board discussion, link below) and see if you come to the same conclusions as those found in Mr Stoldt's resolution, which you are being asked to adopt.

<https://www.youtube.com/watch?v=5siv6fyT4rU>

Please include a copy of this letter in the board packet and thank you for your consideration.

Luke Coletti  
Pacific Grove

----- Forwarded Message -----

Subject:Re: Potential Non-Compliance with SWRCB Funding Condition 4b for the Pacific Grove Local Water Project (CWSRF Agreement Number D15-01021; Project Number C-06-8026-110).

Date:Thu, 15 Mar 2018 09:53:41 -0700

From:Luke Coletti <[ljc@groknet.net](mailto:ljc@groknet.net)>

To:Dave Stoldt <[dstoldt@mpwmd.net](mailto:dstoldt@mpwmd.net)>

CC:[Eileen.Sobeck@waterboards.ca.gov](mailto:Eileen.Sobeck@waterboards.ca.gov) <[Eileen.Sobeck@waterboards.ca.gov](mailto:Eileen.Sobeck@waterboards.ca.gov)>,

[Michael.Lauffer@waterboards.ca.gov](mailto:Michael.Lauffer@waterboards.ca.gov)

<[Michael.Lauffer@waterboards.ca.gov](mailto:Michael.Lauffer@waterboards.ca.gov)>,

[Jonathan.Bishop@Waterboards.ca.gov](mailto:Jonathan.Bishop@Waterboards.ca.gov)

<[Jonathan.Bishop@Waterboards.ca.gov](mailto:Jonathan.Bishop@Waterboards.ca.gov)>,

[Erik.Ekdahl@waterboards.ca.gov](mailto:Erik.Ekdahl@waterboards.ca.gov), [Brian.Coats@waterboards.ca.gov](mailto:Brian.Coats@waterboards.ca.gov)

<[Brian.Coats@waterboards.ca.gov](mailto:Brian.Coats@waterboards.ca.gov)>, [Marianna.Aue@waterboards.ca.gov](mailto:Marianna.Aue@waterboards.ca.gov)

<[Marianna.Aue@waterboards.ca.gov](mailto:Marianna.Aue@waterboards.ca.gov)>,

[Harvey.Packard@waterboards.ca.gov](mailto:Harvey.Packard@waterboards.ca.gov)

<[Harvey.Packard@waterboards.ca.gov](mailto:Harvey.Packard@waterboards.ca.gov)>, Carl, Dan@Coastal

<[dan.carl@coastal.ca.gov](mailto:dan.carl@coastal.ca.gov)>, Craig, Susan@Coastal

<[susan.craig@coastal.ca.gov](mailto:susan.craig@coastal.ca.gov)>, Kahn, Kevin@Coastal

<[Kevin.Kahn@coastal.ca.gov](mailto:Kevin.Kahn@coastal.ca.gov)>, O'Neill, Brian@Coastal

<[Brian.O'Neill@coastal.ca.gov](mailto:Brian.O'Neill@coastal.ca.gov)>, [Eric.Sabolsice@amwater.com](mailto:Eric.Sabolsice@amwater.com)

[<Eric.Sabolsice@amwater.com>](mailto:Eric.Sabolsice@amwater.com), [Richard.Svindland@amwater.com](mailto:Richard.Svindland@amwater.com)  
[<Richard.Svindland@amwater.com>](mailto:Richard.Svindland@amwater.com), David Laredo [<dave@laredolaw.net>](mailto:dave@laredolaw.net)

Mr Stoldt,

In my Nov 15, 2017, e-mail to you (below), I mentioned that "you intend follow your own interpretation" of Condition 2 of SWRCB WRO 2 009-0060.

Now, based your proposed District Resolution (links below) th is is exactly what you intend to do.

<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13.htm>

<http://www.mpwmd.net/asd/board/boardpacket/2018/20180319/13/Item-13-Exh-A.pdf>

Having failed to convince the SWRCB that the District's interpretation of Condition 2 has merits (see link below), the District now appears ready to willfully oppose the SWRCB's interpretation of Condition 2.

[https://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/](https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/)

How exactly does the District's proposed action "respect the language of both documents"?

Thank you for your consideration,

Luke Coletti  
Pacific Grove, CA

On 11/15/17 1:10 PM, Luke Coletti wrote:

>

> Mr Stoldt,

>

> When you say the District "intends to respect the language of both

> documents" I hope that doesn't mean you intend to follow your own

> interpretation of these documents, which you have previously described

> to me and which appear to be in conflict with the Board's intent. As I

> mentioned in my previous e-mail, the Board's intent and direction are  
> clearly described in the video of their Nov 17, 2015 board meeting  
> (link below), where funding for this project was approved.  
>  
> <https://www.youtube.com/watch?v=m5Eg4DJaiYs>  
>  
> Lastly, my previous comments were hardly inflammatory. Instead, they  
> are fact-based comments from a concerned citizen regarding the public  
> record.  
>  
> Thank you for your consideration,  
>  
> Luke Coletti  
>  
> Pacific Grove  
>  
>  
> On 11/14/17 3:16 PM, Dave Stoldt wrote:  
>> Mr. Coletti,  
>>  
>> Kindly refrain from future use of such inflammatory language. The  
>> District is well aware of the findings and conditions of the City's  
>> State Revolving Fund loan, as well as the actual language in the  
>> original cease and desist order. We intend to respect the language  
>> of both documents.  
>>  
>> Regards,  
>> \_\_\_\_\_  
>>  
>> David J. Stoldt  
>> General Manager  
>> Monterey Peninsula Water Management District  
>> 5 Harris Court - Bldg G  
>> Monterey, CA 93940  
>>  
>> 831.658.5651  
>>  
>>  
>>  
>> -----Original Message-----  
>> From: Luke Coletti [<mailto:ljc@groknet.net>]  
>> Sent: Tuesday, November 14, 2017 2:47 PM  
>> To: Dave Stoldt <[dstoldt@mpwmd.net](mailto:dstoldt@mpwmd.net)>  
>> Cc: [Eileen.Sobeck@waterboards.ca.gov](mailto:Eileen.Sobeck@waterboards.ca.gov);  
>> [Michael.Lauffer@waterboards.ca.gov](mailto:Michael.Lauffer@waterboards.ca.gov);

>> [Jonathan.Bishop@Waterboards.ca.gov](mailto:Jonathan.Bishop@Waterboards.ca.gov); [Les.Grober@waterboards.ca.gov](mailto:Les.Grober@waterboards.ca.gov);  
>> [Brian.Coats@waterboards.ca.gov](mailto:Brian.Coats@waterboards.ca.gov); [Marianna.Aue@waterboards.ca.gov](mailto:Marianna.Aue@waterboards.ca.gov);  
>> [Harvey.Packard@waterboards.ca.gov](mailto:Harvey.Packard@waterboards.ca.gov); Carl, Dan@Coastal  
>> [dan.carl@coastal.ca.gov](mailto:dan.carl@coastal.ca.gov); Craig, Susan@Coastal  
>> [susan.craig@coastal.ca.gov](mailto:susan.craig@coastal.ca.gov); Kahn, Kevin@Coastal  
>> [Kevin.Kahn@coastal.ca.gov](mailto:Kevin.Kahn@coastal.ca.gov); O'Neill, Brian@Coastal  
>> [Brian.O'Neill@coastal.ca.gov](mailto:Brian.O'Neill@coastal.ca.gov); [Eric.Sabolsice@amwater.com](mailto:Eric.Sabolsice@amwater.com);  
>> [Richard.Svindland@amwater.com](mailto:Richard.Svindland@amwater.com); David Laredo [dave@laredola.w.net](mailto:dave@laredola.w.net)  
>> Subject: Potential Non-Compliance with SWRCB Funding Condition 4b for  
>> the Pacific Grove Local Water Project (CWSRF Agreement Number  
>> D15-01021; Project Number C-06-8026-110).  
>>  
>>  
>> Mr Stoldt,  
>>  
>> As part of funding the Pacific Grove Local Water Project (PGLWP) the  
>> SWRCB attached condition 4b (see SWRCB Res 2015-0070, link below)  
>> which, in part, states: "The City...shall use the ensuing demand  
>> reductions to offset deliveries from Cal-Am until such time as the  
>> City receives consent from the State Water Board's Executive Director".  
>>  
>> [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2015/rs2015\\_0070.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2015/rs2015_0070.pdf)  
>>  
>>  
>> Based on the revised minutes for the District's Sept 19, 2017 Water  
>> Supply Planning Committee Meeting (text and link below), both Pacific  
>> Grove and the District are considering breaking faith with this  
>> condition, which is also reflected in SWRCB WRO 2016-0016, see CDO  
>> Condition 8d. The minutes mention the following:  
>>  
>> "The Pacific Grove Local Water Project should begin operation in  
>> October 2017. The goal was to obtain final permits within 45 days of  
>> operation, after which the City plans to petition the District for  
>> use of the Pacific Grove Water Entitlement established by

MPWMD

>> Ordinance No. 168."

>>

>> <http://www.mpwmd.net/asd/board/committees/watersupply/2017/20171114/01/Item-1-Exh-A.pdf>

>>

>>

>> MPWMD Ordinance 168, adopted in Jan, 2016, grants Pacific Grove a 66

>> AF entitlement based on the anticipated potable water being "freed

>> up" by this state funded project. The District also gifted itself a

>> 9AF allotment (see link below).

>>

>> <http://www.mpwmd.net/ordinances/final/ord168/Ordinance-168.pdf>

>>

>> You are certainly free to defy the SWRCB but it seems to me you risk

>> the possibility of making matters worse for this project.

For

>> example, the SWRCB could place restrictions on the plant's waste

>> discharge requirements permits (production and distribution) and

>> possibly even shut the plant down based on non-compliance.

Further,

>> the California Coastal Commission (CCC) could revoke the city's

>> Coastal Development Permit Waiver, which was based, in part, on the

>> city's explicit promise to dedicate all of the saved potable water

>> (125 AFA) towards the river (see CDP application, attached PDF). The

>> CCC would then likely require the city to apply for a full CDP, which

>> would highlight the project's explicit promise to provide a potable

>> water offset to assist California American Water in reducing system

>> pumping from the Carmel River, as required by SWRCB WRO 2009-0060 &

>> 2016-0016.

>>

>> State agencies typically cooperate with one another and in this case

>> could force Pacific Grove and the District into compliance. The

>> city's last performance before the CCC (failure to comply with a

>> coastal armoring permit) was anything but pleasant for all



concerned.  
>> Why is the District willfully encouraging Pacific Grove in  
to further  
>> non-compliance with state ordered conditions?  
>>  
>> If you review the video of the Nov 17, 2015 SWRCB meeting  
(link  
>> below), where funding for this project was approved, I believe you  
will immediately understand the Board's decision and also  
Pacific  
>> Grove's willingness to accept the conditions placed on the  
project.  
>>  
>> <https://www.youtube.com/watch?v=m5Eg4DJaiYs>  
>>  
>> Apparently, the city feels they're not obligated to honor  
their  
>> promises after having received all of the state money for  
this  
>> project. I am deeply disappointed with this deceptive and  
cynical  
>> strategy.  
>>  
>>  
>> Thank you for your consideration,  
>>  
>> Luke Coletti  
>> Pacific Grove