



Supplement to 6/17/2019 MPWMD Board Packet

Attached are copies of letters received between May 13, 2019 through June 10, 2019. These letters are listed in the June 17, 2019 Board packet under Letters Received.

| Author | Addressee | Date | Topic |
|-------------------------------|------------------|-------------|--|
| Sam Boland-Brien | David J. Stoldt | 5/23/2019 | Regarding the Applicability of Sustainable Groundwater Management Act Requirements in the Carmel Valley Basin |
| California Coastal Commission | David J. Stoldt | 5/29/2019 | Appellant Brian LeNeve – Appeal from Coastal Permit Decision of Local Government – City of Marina – Monterey Peninsula Water Supply Project |
| California Coastal Commission | David J. Stoldt | 5/29/2019 | Appellant California-American Water Company – Appeal from Coastal Permit Decision of Local Government – City of Marina – Monterey Peninsula Water Supply Project |
| California Coastal Commission | David J. Stoldt | 5/31/2019 | Appellant Castroville Community Services District – Appeal from Coastal Permit Decision of Local Government – City of Marina – Monterey Peninsula Water Supply Project |

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GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

May 23, 2019

David J. Stoldt
General Manager
Monterey Peninsula Water Management District
5 Harris Court – Bldg. G
Monterey, CA 93940

REGARDING THE APPLICABILITY OF SUSTAINABLE GROUNDWATER MANAGEMENT ACT REQUIREMENTS IN THE CARMEL VALLEY BASIN

Dear Mr. Stoldt:

The State Water Resource Control Board (State Water Board, or Board) is providing this letter in response to correspondence received from you regarding the applicability of the Sustainable Groundwater Management Act (SGMA, or the Act) in the Carmel Valley Basin.

Water flowing in known and definite channels is excluded from SGMA's definition of groundwater. (Wat. Code, § 10721(g).) In contrast, when identifying groundwater basins in Bulletin 118, the Department of Water Resources primarily considers the presence and areal extent of unconsolidated alluvial sediments. As a result, all or portions of a groundwater basin described in Bulletin 118 may not contain "groundwater" as the term is defined by SGMA. The Carmel Valley Basin is a basin that does not contain significant amounts of groundwater; the Board determined in Water Rights Order 95-10 that the subsurface flows of the Carmel River downstream of river mile 15 within the Carmel Valley alluvium is water flowing in a known and definite channel or subterranean stream.

The planning deadlines of SGMA are technically applicable to the Carmel Valley Basin (Water Code §§ 10720.7 and 10727) because they apply to all high or medium priority basins identified in Bulletin 118. High or medium priority groundwater basins may be designated as probationary by the State Water Board if a local agency has not decided to become a groundwater sustainability agency (GSA) or if a GSA has not adopted a groundwater sustainability plan for the basin. (Wat. Code, § 10735.2, subd. (a).) However, to the extent that the subsurface water in the Carmel Valley Basin is not groundwater as defined by SGMA, SGMA would grant no additional authorities to the State Water Board during the intervention process.

Extraction reporting requirements imposed by SGMA due to the absence of a GSA or due to designation as a probationary basin do not apply to extractions from subterranean streams. (Wat. Code, § 5202(a).) Restrictions on groundwater extraction imposed by the Board through an interim plan are also not applicable to extractions from a subterranean stream. (Wat. Code, § 10735.8(c).)

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Mr. Stoldt

- 2 -

May 23, 2019

Additionally, any impacts of extractions from subterranean streams are not "caused by groundwater conditions" and therefore are not "undesirable results" as defined by SGMA. (Wat. Code, § 10721(x).) The essential requirement that basins be sustainably managed to avoid undesirable results, as those terms are defined by the Act, are inapplicable to basins that do not contain groundwater even though there is no explicit exception to SGMA's planning deadlines.

Due to the unique circumstances of the Carmel Valley Basin and the lack of significant groundwater in the basin as defined by SGMA, State Water Board staff do not intend to provide a recommendation to the State Water Board to declare the Carmel Valley Basin probationary, even if the technical requirements for GSA formation and adoption of a GSP have not been met.

Sincerely,



Sam Boland-Brien, Chief
Groundwater Management Program
State Water Resource Control Board

cc: Via Email
Taryn Ravazzini
Department of Water Resources

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 726 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060-4508
 VOICE (831) 427-4863 FAX (831) 427-4877



MAY 29 2019

MPWMD

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: **Brian LeNeve**

Mailing Address: **P.O. Box 1012**

City: **Carmel** Zip Code: **93921** Phone: **831-624-8497**

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Marina

2. Brief description of development being appealed:

The City of Marina Planning Commission's denial of California-American Water Company's CDP for the Monterey Peninsula Water Supply Project (CDP 2018-01).

3. Development's location (street address, assessor's parcel no., cross street, etc.):

CEMEX Lapis Sand Mining Plant, 100 Lapis Road (APN 203-011-019-000), and Transportation Agency of Monterey County right-of-way.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: March 7, 2019

7. Local government's file number (if any): CDP 2018-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

California-American Water Company
 655 West Broadway, Suite 1410
 San Diego, CA 92101

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attachment 1.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

My name is Brian LeNeve, and I am appealing the City of Marina Planning Commission's denial of California-American Water Company's ("Cal-Am") application for a coastal development permit ("CDP") for those portions of Cal-Am's Monterey Peninsula Water Supply Project that would be sited within the City's coastal zone.

I qualify as an aggrieved person under the Coastal Act, its implementing regulations, and the Marina Local Coastal Program ("LCP") because I spoke in support of the Project at the Planning Commission's CDP workshop on January 8, 2019, and at the Planning Commission's February 14, 2019 hearing on the CDP. On March 7, 2019, the Planning Commission adopted Resolution 2019-06, denying Cal-Am's CDP application (CDP 2018-01) and making findings that the Project is inconsistent with the City's certified LCP and the Coastal Act. On May 10, 2019, Marina issued a Final Local Action Notice for the Project. The City charges a fee for an appeal of a Planning Commission denial to the City Council (see Resolution No. 2018-51), and I did not file such an appeal. However, because the City charges a fee to appeal a Planning Commission denial to the City Council, as an interested party I may appeal the denial directly to the Coastal Commission once the City has filed a Final Local Action Notice with the Commission. (Coastal Act Regulations § 13573(a)(4).)


Cal-Am's Project will provide much needed water to the Monterey Peninsula and an alternative to pumping water from the Carmel River, which causes impacts to habitat on the River and its watershed, as well as to the federally threatened steelhead.

The Project is a major public works project. The Coastal Act allows an action taken by a local government with a certified LCP on a CDP application for a major public works project to be appealed to the Coastal Commission. (Public Resources Code, § 30603(a)(5).) The Coastal Act also allows an appeal of a local denial of a CDP application for a major public works project. (Public Resources Code, § 30603(b)(2).) Here, for the reasons set forth in the record before the City of Marina, the Project's proposed development in Marina's Coastal Zone conforms to the standards set forth in the City of Marina's certified LCP and the public access policies of the Coastal Act. (Public Resources Code, § 30603(b)(2).) Accordingly, the City of Marina Planning Commission's denial of the CDP application is appealable to the Coastal Commission.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or Authorized Agent

Date: 5-22-19

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

ATTACHMENT 1

| Name | Mailing Address |
|------------------------|--|
| Kathryn Horning | California-American Water Company 655 West Broadway, Suite 1410 San Diego, CA 92101 |
| Ian Crooks | California-American Water Company 655 West Broadway, Suite 1410 San Diego, CA 92101 |
| Sarah Leeper | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Cathy Hongola-Baptista | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Demetrio Marquez | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| James Kelly | California-American Water Company 4701 Beloit Drive Sacramento, CA 95838 |
| Anthony Cerasuolo | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Jeffrey Linam | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Kevin Tilden | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Richard Svindland | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Nicholas Subias | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Catherine Stedman | California-American Water Company 511 Forest Lodge Rd, Suite 100 Pacific Grove, CA 93950 |
| DJ Moore | Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071-1560 |
| Winston Stromberg | Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071-1560 |

| Name | Mailing Address |
|------------------------------------|--|
| Tony Lombardo | Anthony Lombardo & Associates 144 W. Gabilan Street Salinas, CA 93901 |
| Rob Donlan | Ellison, Schneider & Harris, LLP 2600 Capitol Ave., Suite 400 Sacramento, CA 95816 |
| City of Marina Planning Commission | 211 Hillcrest Avenue Marina, California 93933 |
| Kathy Biala | City of Marina 211 Hillcrest Ave. Marina, CA 93933 |
| David Mack | City of Marina Planning Department 209 Cypress Avenue Marina, CA 93933 |
| Deborah Mall | Wellington Law Offices 857 Cass Street, Suite D Monterey, CA 93940 |
| Paul P. Spaulding | Farella Braun & Martel LLP 235 Montgomery Street, 17th Floor San Francisco, CA 94104 |
| Linda Sobczynski | Farella Braun & Martel LLP 235 Montgomery Street, 17th Floor San Francisco, CA 94104 |
| Keith Van Der Maaten | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |
| Howard Wilkins | Remy Moose Manley LLP 555 Capitol Mall #800 Sacramento, CA 95814 |
| Vera Nelson | EKI Environment & Water 577 Airport Blvd., Suite 500 Burlingame, CA 94010 |
| Ted Asch | Aqua Geo Frameworks 130360 County Road D Mitchell, Nebraska 69357 |
| Curtis Hopkins | Hopkins Groundwater Consultants, Inc. P.O. Box 3596 Ventura, CA 93006 |
| Matt Zefferman | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |
| Jan Shriner | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |

| Name | Mailing Address |
|---|---|
| Mark Fogelman | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Christopher Stiles | Remy Moose Manley LLP 555 Capitol Mall, Suite 800 Sacramento, CA 95814 |
| Ruth Stoner Muzzin | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Nathaniel Ku | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Sarah Myers | 122 28th Avenue San Francisco, CA 94121 |
| Department of the Army, Fort Ord Base Realignment and Closure Field Office | P.O. Box 5008, Building #4463, Gigling Road Monterey, CA 93944-5008 |
| Department of the Army, U.S. Army Installation Management Command | 1759 Lewis Road, Suite 210 Monterey, Ca 93944-3223 |
| Monterey Bay National Marine Sanctuary Advisory Council, Research Activity Panel | MBNMS Research Coordinator 99 Pacific Street, Bldg. 455A Monterey, CA 93940 |
| Department of the Army San Francisco District, U.S. Army Corps of Engineers | 1455 Market Street San Francisco, CA 94103-1398 |
| United States Environmental Protection Agency, Region IX | 75 Hawthorne Street San Francisco, CA 94105-3901 |
| California Department of Fish and Wildlife Central Region | 1234 East Shaw Avenue Fresno, California 93710 |
| California Department of Parks and Recreation, Monterey District | 2211 Garden Road Monterey, CA 93940 |
| California State Lands Commission | 100 Howe Avenue, Suite 100-South Sacramento, CA 95825-8202 |
| David Balgobin | State Water Resources Control Board 1001 I Street, 16-54C Sacramento, CA 95814 |
| Peter von Langen | California Regional Water Quality Control Board, Central Coast Region 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 |
| Monterey Bay Air Resources District | 24580 Silver Cloud Court Monterey, CA 93940 |

| Name | Mailing Address |
|---|--|
| David Stoldt | Monterey Peninsula Water Management District P.O. Box 85 Monterey, CA 93942 |
| Monterey Regional Waste Management District | P.O. Box 1670 Monterey, CA 93933-1670 |
| Karen Grimmer | National Oceanic & Atmospheric Admin. Monterey Bay National Marine Sanctuary 99 Pacific Street, Building 445a Monterey, CA 93940 |
| Mike Zeller | Transportation Agency for Monterey County 55-B Plaza Circle Salinas, CA 93901 |
| Kyle Dahl | U.S. Army Corps of Engineers, San Francisco District Regulatory Division, South Branch 1455 Market Street, 16th Floor San Francisco, CA 94103 |
| Cameron Johnson | U.S. Army Corps of Engineers, San Francisco District Regulatory Division, South Branch 1455 Market Street, 16th Floor San Francisco, CA 94103 |
| Jacob Martin | U.S. Fish and Wildlife Service 1100 Fiesta Way Watsonville, CA 95076 |
| Jimmy Panetta | United States House of Representatives 100 W. Alisal Street Salinas, CA 93901 |
| Mary Ann Carbone Fred Meuer | City of Sand City 1 Sylvan Park Sand City, CA 93955 |
| Paul Sciuto | Monterey One Water 5 Harris Court, Building D Monterey, CA 93940 |
| Bob Holden | Monterey One Water 5 Harris Court, Building D Monterey, CA 93940 |
| Jacqueline Meyer | National Oceanic and Atmospheric Administration - National Marine Fisheries Service 777 Sonoma Avenue, Room 325 Santa Rosa, CA 95404 |

| Name | Mailing Address |
|--------------------|--|
| Joyce Ambrosius | National Oceanic and Atmospheric Administration - National Marine Fisheries Service 777 Sonoma Avenue, Room 325 Santa Rosa, CA 95404 |
| Christine Lehnertz | National Park Service, Pacific West Region 333 Bush Street, Suite 500 San Francisco, CA 94104 |
| Stephen Testa | California Department of Conservation, State Mining and Geology Board 811 K Street, Suite 2015 Sacramento, CA 95814 |
| Brandon Sanderson | California Department of Fish and Wildlife 3196 S. Higuera Street, Suite A San Luis Obispo, CA 93401 |
| Eric Wilkins | California Department of Fish and Wildlife 20 Lower Ragsdale Drive, Suite 100 Monterey, CA 93940 |
| Jeffrey Single | California Department of Fish and Wildlife, Region IV Office 1234 East Shaw Avenue Fresno, CA 93710 |
| Reinie Jones | California Department of Transportation, District 5 50 Higuera Street San Luis Obispo, CA 93401 |
| Holly Wyer | California State Lands Commission 100 Howe Avenue, Suite 100-South Sacramento, CA 95825 |
| Steve Bachman | California State Parks, Monterey District 2211 Garden Road Monterey, CA 93940 |
| Amy Palkovic | California State Parks, Monterey District 2211 Garden Road Monterey, CA 93940 |
| John Avella | California State University Monterey Bay College of Business Valley Hall Suite B, Room B108 Seaside, CA 93955 |
| Eric Tynan | Castroville Community Services District 11499 Geil Street Castroville, CA 95012 |

| Name | Mailing Address |
|---------------------------------------|---|
| Gary Cursio | Monterey County Hospitality Association P.O. Box 223542 Carmel, CA 93922 |
| Kevin Dayton | Monterey Peninsula Chamber of Commerce 243 El Dorado Street, Suite 200 Monterey, CA 93940 |
| Yair Chaver | Adams, Broadwell, Joseph & Cardoza 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080 |
| Bill Kampe | 300 Forest Ave. Pacific Grove, CA 93950 |
| Melodie Chrislock | Public Water Now P.O. Box 1293 Monterey, CA 93942 |
| John Tilley | Coalition of Peninsula Businesses P.O. Box 223542 Carmel, CA 93922 |
| Peter Montier | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Ag Land Trust | P.O. Box 1731 Salinas, CA 93902 |
| California Unions for Reliable Energy | Adams Broadwell Joseph & Cardozo 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080-7037 |
| Carmel River Steelhead Association | P.O. Box 1183 Monterey, CA 93942 |
| Carmel River Watershed Conservancy | P.O. Box 223833 Carmel, CA 93922 |
| Mitchell Chadwick | 3001 Lava Ridge Court, Suite 120 Roseville, CA 95661 |
| N. Jerae Carlson | CEMEX 10100 Katy Freeway, Suite 300 Houston, TX 77043 |
| Margaret-Anne Coppernoll | Citizens for Just Water 3012 Crescent Street Marina, CA 93933 |
| Coalition of Peninsula Businesses | P.O. Box 223542 Carmel, CA 93922 |
| Deep Water Desal, LLC | 7532 Sandholdt Rd., Suite 6 Moss Landing, CA 95039 |
| Ecological Rights Foundation | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |

| Name | Mailing Address |
|--|---|
| Center for Biological Diversity | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |
| Our Children's Earth Foundation | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |
| Margaret Davis | Fort Ord Rec Users 5 Via San Joaquin, Suite C Monterey, CA 93940 |
| Land Watch Monterey County | P.O. Box 1876 Salinas, CA 93902 |
| Pebble Beach Company | Fenton & Keller 2801 Monterey-Salinas Highway P.O. Box 791 Monterey, CA 93942-0791 |
| Point Blue Conservation Science | 3820 Cypress Drive, #11 Petaluma, CA 94954 |
| Public Trust Alliance | Michael Warburton 187 East Blithedale Avenue Mill Valley, CA 94141 |
| Public Water Now | P.O. Box 1293 Monterey, CA 93942 |
| Salinas Valley Water Coalition | P.O. Box 2670 Greenfield, CA 93927 |
| Monterey County Farm Bureau | P.O. Box 1449 Salinas, CA 93902-1449 |
| Surfrider Foundation | Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| Water Ratepayers Association of the Monterey Peninsula | P.O. Box 146 Carmel, CA 93921 |
| Michael Baer | 560 Madison Street Monterey, CA 93940 |
| David Beech | 1450 Manor Rd. Monterey, CA 93940 |
| David Brown | 436 Diana Place Marina, CA 93933 |
| Bob Coble | 10 Primrose Circle Seaside, CA 93955 |
| Herbert Cortez | 221 Mortimer Lane Marina, CA 93933 |
| Bruce Delgado | 3037 Vaughan Ave. Marina, CA 93933 |

| Name | Mailing Address |
|------------------|--|
| Myrleen Fisher | 55 Wawona Road Carmel Valley, CA 93924 |
| David Gorman | 303 Whitney Place Marina, CA 93933 |
| Jane Haines | 601 Ocean View Blvd., Apt. 1, Pacific Grove, CA 93950 |
| Clifton Herrmann | 911 Center Street, Suite A Santa Cruz, CA 95060 |
| Juli Hoffman | 3201 Martin Circle Marina, CA 93933 |
| Thomas Moore | P.O. Box 8704 Monterey, CA 93943-8704 |
| Hebard Olsen | 99 Pacific Street Monterey, CA 93940 |
| Carol Reeb | Hopkins Marine Station 120 Oceanview Blvd. Pacific Grove, CA 93950 |
| Dick Rotter | 14500 Mountain Quail Rd. Corral de Tierra, CA 93908 |
| Roy Thomas | 99 Pacific Ave., Building 455a Monterey, CA 93940 |
| Unknown | 1025 Olmsted Ave Pacific Grove, CA 93950 |
| Roland Martin | 269 Del Mesa Carmel Carmel, CA 93923 |
| Marilyn Mason | 915 Toro Ct. Seaside, CA 93955 |
| DeAnna Yateman | Carmelo & 11th Carmel, CA 93921 |
| Juli Hofmann | 3201 Martin Circle Marina, CA 93933 |
| Ed Meachum | 360 Everett Drive Marina, CA 93933 |
| Fannie Auria | 3128 Crescent Ave #67 Marina, CA 93933 |
| Val Valdez | 420 Reservation Road #54 Marina, CA 93933 |
| Evan Hauge | 1911 Chennault Ct. Marina, CA 93933 |
| Peter R. Clark | 346-B Watson St. Monterey, CA 93940 |
| Johanna Pooler | 307 Whitney Marina, CA 93933 |

| Name | Mailing Address |
|--------------------|--|
| Diana Neptune | 13805 Sherman Blvd. East Garrison, CA 93933 |
| Gainell Johnson | 3338 Michael Dr. Marina, CA 93933 |
| Louis Auria | 230 Michael Dr. Marina, CA 93933 |
| Janet Fearnside | 3154 Crescent Ave. Marina, CA 93933 |
| Moirra LaMountain | 3137-2 Seacrest Ave. Marina, CA 93933 |
| B. Nolan | 3064 Bayer Drive Marina, CA 93933 |
| B. Svetlik | 128 Cypress Grove St. Marina, CA 93933 |
| Darren Franklin | Sheppard, Mullin, Richter & Hampton LLP 333 South Hope Street, 43rd Floor Los Angeles, CA 90071-1422 |
| Russell McGlothlin | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Norman Groot | Monterey County Farm Bureau P.O. Box 1449 Salinas, CA 93902-1449 |
| Bob McKenzie | Coalition of Peninsula Businesses P.O. Box 223542 Carmel, CA 93922 |
| Ron Weitzman | Water Plus P.O. Box 146 Carmel, CA 93921 |
| Layne Long | City of Marina 211 Hillcrest Ave. Marina, CA 93933 |
| Lisa Berkley | Citizens for Just Water 3201 Martin Circle Marina, CA 9399 |
| Nancy Isakson | Salinas Valley Water Coalition 3201 Playa Court Marina, CA 93933 |
| George Riley | Public Water Now 1198 Castro Road Monterey, CA 93940 |
| Robert Wellington | Wellington Law Offices 857 Cass Street, Suite D Monterey, CA 93940 |

| Name | Mailing Address |
|-----------------|--|
| Ben Harvey | City of Pacific Grove 300 Forest Ave. Pacific Grove, CA 93950 |
| David Laredo | De Lay & Laredo 606 Forest Ave. Pacific Grove, CA 93950 |
| Carlos Ramos | 1048 Broadway Ave. Seaside, CA 93955 |
| Christina Caro | Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080 |
| Gabriel Ross | Shute, Mihaley & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| John Farrow | M.R. Wolfe & Associates, P.C. 555 Sutter Street, Suite 405 San Francisco, CA 94102 |
| Vanessa Young | California Public Utilities Commission Public Advocates Office Legal Division, Room 4017 505 Van Ness Ave. San Francisco, CA 94102 |
| Laurens Silver | California Environmental Law Project P.O. Box 667 Mill Valley, CA 94942 |
| Dan Carroll | Downey Brand, LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814 |
| Jonas Minton | Planning and Conservation League 1107 9th Street, Suite 901 Sacramento, CA 95814 |
| Dennis Williams | Geoscience Support Services, Inc. P.O. Box 220 Claremont, CA 91711 |
| Anthony Tersol | Surfrider Foundation 319 Forest Ave. Pacific Grove, CA 93950 |
| Heidi Quinn | De Lay & Laredo 606 Forest Ave. Pacific Grove, CA 93950 |
| Michael Bowhay | Monterey Peninsula Country Club P.O. Box 2090 Pebble Beach, CA 93953-2090 |

| Name | Mailing Address |
|--------------------|--|
| S. Sannadan | Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080 |
| Roger Moore | Rossmann and Moore, LLP 380 Hayes Street San Francisco, CA 94102 |
| Anna Shimko | Burke, Williams & Sorenson 101 Howard Street, Suite 400 San Francisco, CA 94105 |
| Catherine Berte | Perkins Coie LLP 505 Howard Street, Suite 1000 San Francisco, CA 94105 |
| James McTarnaghan | Perkins Coie LLP 505 Howard Street, Suite 1000 San Francisco, CA 94105 |
| Sigrid Waggener | Burke, Williams & Sorenson 101 Howard Street, Suite 400 San Francisco, CA 94105 |
| Eric Zigas | Environmental Science Associates 550 Kearny Street, Suite 800 San Francisco, CA 94108-2512 |
| Vidhya Prabhakaran | Davis Wright Tremaine LLP 505 Montgomery Street, Suite 800 San Francisco, CA 94111 |
| Megan Myers | 110 Oxford Street San Francisco, CA 94134 |
| James Brezack | Brezack & Associates Planning 3000 Citrus Circle, Suite 210 Walnut Creek, CA 94598 |
| Patricia Nelson | Public Trust Alliance 130 Edward Ave. San Rafael, CA 94903 |
| Eric Robinson | Kronick Moskowitz Tiedermann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 |
| Lon House | 10645 N. Oracle Road, Suite 121-216 Oro Valley, AZ 85737 |
| Don Evans | 8550 West Charleston, Suite 102-394 Las Vegas, NV 89117 |
| Anne Beaumont | Perkins Coie LLP 11988 El Camino Real, Suite 350 San Diego, CA 92130 |

| Name | Mailing Address |
|-----------------|---|
| Laura Zagar | Perkins Coie LLP 11988 El Camino Real, Suite 350 San Diego, CA 92130 |
| Angela Howe | Surfrider Foundation P.O. Box 6010 San Clemente, CA 92674 |
| Caitlin Malone | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Jena Shoaf | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Frances Farina | De Lay & Laredo 389 Princeton Ave. Santa Barbara, CA 93111 |
| Charles McKee | County of Monterey 168 West Alisal St., 3rd Floor Salinas, CA 93901 |
| Shauna Lorance | Monterey County Water Resources Agency P.O. Box 930 Salinas, CA 93902 |
| Janet Brennan | Landwatch Monterey County P.O. Box 1876 Salinas, CA 93902 |
| Julie Engell | Landwatch Monterey County P.O. Box 1876 Salinas, CA 93902 |
| Lloyd Lowrey | Noland, Hamerly, Etienne & Hoss P.O. Box 2510 Salinas, CA 93902 |
| Jim Cullem | Monterey Peninsula Regional Water Authority P.O. Box 7202 Carmel, CA 93921 |
| Bridget Hoover | Monterey Bay National Marine Sanctuary 99 Pacific Street, Bldg. 455 Monterey, CA 93940 |
| John Forsythe | California Public Utilities Commission 180 Promenade Circle, Suite 115 Sacramento, CA 95834 |
| Arocles Aguilar | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |

| Name | Mailing Address |
|------------------------------------|--|
| Helen W. Yee | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |
| Carrie Pratt | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |
| Michael G. Colantuono | Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945-5091 |
| David J. Ruderman | Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945-5091 |
| Xavier Becerra, Esq. | Attorney General of California State of California, Department of Justice Office of the Attorney General P.O. Box 944255 Sacramento, CA 94244-2550 |
| Dr. Rosemary Knight | Stanford University 450 Serra Mall Stanford, CA 94305 |
| Dennis Williams | Geoscience 620 Arrow Highway, Ste. 2000 La Verne, CA, 91750 |
| Tim Durbin | 2020 Research Park Drive, Suite 100 Davis, CA 95618 |
| Peter Leffler | Luhdorff & Scalmanini 505 14th Street, Suite 945 Oakland, CA 94612 |
| Roger Masuda | Griffith & Masuda 517 E. Olive Ave. Turlock, CA 95380 |
| Carmel River Steelhead Association | P.O. Box 1183 Monterey, CA 93942 |
| Margaret-Anne Coppernoll | Monterey County Democratic Central Committee P.O. Box 3024 Monterey, CA 93942 |
| Laurens Silver | California Environmental Law Project P.O. Box 667 Mill Valley, CA 94942 |
| Luana Conley | Carmel Valley Association P.O. Box 157 Carmel Valley, CA 93924 |

| Name | Mailing Address |
|----------------------|---|
| Ronald Wilson | CEMEX, Inc. 5180 Golden Foothill Parkway Suite 200 El Dorado Hills, CA 95762 |
| Robert Mullane | City of Carmel-by-the-Sea Community Planning P.O. Drawer G Carmel-by-the-Sea, CA 93921 |
| Daniel Dawson | City of Del Rey Oaks 650 Canyon Del Rey Road Del Rey Oaks, CA 93940 |
| Anita Shepherd-Sharp | City of Marina 211 Hillcrest Avenue Marina, CA 93933 |
| Margaret Davis | City of Marina Planning Commission 211 Hillcrest Avenue Marina, CA 93933 |
| Kim Kole | City of Monterey Planning Department 570 Pacific Street Monterey, CA 93940 |
| Anastazia Aziz | Community Development Department, Planning Division City of Pacific Grove 300 Forest Avenue Pacific Grove, CA 93940 |
| George Brehmer | Coldwell Banker Del Monte Realty-Rancho P.O. Box 22070 Carmel, CA 93922 |
| Steve Emerson | First Pacific Financial Services 3152 Ocean Terrace Marina, CA 93933 |
| Steve McNally | Hyatt Regency Monterey Hotel and Spa 1 Old Golf Course Road Monterey, CA 93940 |
| Bill Kocher | Marina Coast Water District 11 Reservation Road Marina, CA 93933 |
| Thomas Moore | Marina Coast Water District 11 Reservation Road Marina, CA 93933 |
| Brienne Fitzgerald | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |

| Name | Mailing Address |
|--------------------|---|
| Julie Packard | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Cesar Lara | Monterey Bay Central Labor Council 931 E. Market Street Salinas, CA 93905 |
| Nelson Vega | Monterey Commercial Property Owners Association P.O. Box 1953 Monterey, CA 93942 |
| Sherwood Darington | Monterey County Agricultural Land Conservancy P.O. Box 1731 Salinas, CA 93902 |
| Marc Del Piero | Monterey County Agricultural Land Conservancy P.O. Box 1731 Salinas, CA 93902 |
| Kevin Stone | Monterey County Association of Realtors 201 A Calle Del Oaks Place Del Rey Oaks, CA 93940 |
| Patrick Treffry | Monterey County Health Department 1270 Natividad Road Salinas, CA 93906 |
| Sam Teel | Monterey County Hospitality Association P.O. Box 223542 Carmel, CA 93922 |
| Bob Schubert | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Robert Murdoch | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Mike Novo | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Andrew Leavitt | Monterey Marriott 350 Calle Principal Monterey, CA 93940 |
| Jody Hanson | Monterey Peninsula Chamber of Commerce 30 Ragsdale Drive |

| Name | Mailing Address |
|-------------------|---|
| | Suite 200 Monterey, CA 93940 |
| Paul Bruno | Monterey Peninsula Engineering P.O. Box 2317 Monterey, CA 93942 |
| Tim Jensen | Monterey Peninsula Regional Park District 60 Garden Court #325 Monterey, CA 93940 |
| Andrea Baltzinger | Monterey Plaza Hotel & Spa 400 Cannery Row Monterey, CA 93940 |
| John Narigi | Monterey Plaza Hotel & Spa 400 Cannery Row Monterey, CA 93940 |
| Barton Lounsbury | Rossmann and Moore, LLP 2014 Shattuck Avenue Berkeley, CA 94704 |
| Molly Erickson | Stamp Ericson Law Offices 479 Pacific Street, Suite 1 Monterey, CA 93940 |
| J. Alan Fagan | The Mattox Group P.O. Box 987 Marina, CA 93933 |
| Harvey Billig | Casanova Street 25 SE 13th Avenue Carmel, CA 93921 |
| Patti Bradshaw | 3107 Flower Circle Marina, CA 93933 |
| Liz Billingsley | 401 Sunset Place Marina, CA 93933 |
| Harvey Biala | 3012 Crescent Street Marina, CA 93933 |
| Larry Parish | 27420 Schulte Rd Carmel, CA 93923 |
| Chandler Roland | 179 Palm Avenue Marina, CA 93933 |
| Ian Oglesby | 440 Harcourt Avenue Seaside, CA 93955 |
| Rick Heher | Monterey Peninsula Taxpayers Association P.O. Box 157 Monterey, CA 93942 |
| Susan Jordan | California Coastal Protection Network 906 Garden Street Santa Barbara, CA 93101 |

| Name | Mailing Address |
|--|---|
| Heather Hubanks | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Alan Cohen | Pacific Grove City Council 300 Forest Ave Pacific Grove, CA 93950 |
| Mary Ann Lefell | Monterey County Business Council P.O. Box 2746 Monterey, CA 93942 |
| Michelle Knight | Adventures by the Sea 299 Cannery Row Monterey, CA 93940 |
| Brent Reitz | Pebble Beach Company 1700 17-Mile Drive Pebble Beach, CA 93953 |
| Andrew Leavitt | 253 Bennett Court Marina, CA 93933 |
| Herbert Lusk | Bethel Missionary Babtist Church 390 Elm Avenue Seaside, CA 93955 |
| Carlos Ramos | Monterey/Santa Cruz Building and Construction Trades Council 10300 Merritt St. Castroville, CA 95012 |
| Ron Chesshire | Monterey/Santa Cruz Building and Construction Trades Council 10300 Merritt St. Castroville, CA 95012 |
| Stefanie Sekich-Quinn | Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| Barbara Meister | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Kathy Jensen | Rutan & Tucker LLP 611 Anton Boulevard, Suite 1400 Costa Mesa, CA 92626 |
| William Monning California State Senate | 99 Pacific Street, Suite 575-F Monterey, CA 93940 |
| Mark Stone California State Assembly | 99 Pacific Street #5550 Monterey, CA 93940 |
| William Bourcier, Ph.D. | 8586 Tesla Road Livermore, CA 94550 |

| Name | Mailing Address |
|--|--|
| Tom McMahon | Pacific Grove Downtown Business Improvement District 300 Forest Ave. Pacific Grove, CA 93950 |
| Peter Munteer | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Rene Poskoff | Coalition of Peninsula Businesses and Monterey County Hospitality Association |
| Jody Hansen | Coalition of Peninsula Businesses and Monterey County Hospitality Association |
| Seaside Basin Watermaster | 260 Garden Rd. Suite 228 Monterey, CA 93940 |
| Monterey Abalone Company | 160 Wharf #2 Monterey, CA 93940 |
| People's Moss Landing Desalination Project | 16 W. Gabilan St. Salinas, CA 93901 |
| Spragg and Associates | 420 Highland Ave. Manhattan Beach, CA 90266 |
| Andrew Bell | 3079 Hermitage Rd. Pebble Beach, CA 93953 |
| Michael Cate | PO Box 178 Carmel, CA 93921 |
| Stephen Collins | 26153 Legends Ct. Corral de Tierra, CA 93908 |
| Jean Donnelly | 759 Jewell Ave. Pacific Grove, CA 93950 |
| Christina Holston | 414 Granite St. Pacific Grove, CA 93950 |
| Steven Huish | 5459 Quail Meadows Dr. Carmel, CA 93923 |
| Safwat Malek | PO Box 1734 Pebble Beach, CA 93953 |
| Barbara Martin | 328 Neponset Rd. Salinas, CA 93908 |
| Darby Moss Worth | 8250 El Camino Estrada Carmel, CA 93923 |
| Virgil Piper | 3010 Eddy St. Marina, CA 93933 |
| Dan Presser | 6 Victoria Vale Monterey, CA 93940 |
| Lester Schwabe | 1407 Hoffman Ave. Monterey, CA 93940 |

| Name | Mailing Address |
|---|---|
| Frederick & Karin Schwoerke | 1160 Mono Ct. Seaside, CA 93955 |
| Doug Smith | Chapman Science Academic Center E207 6133 Fifth Avenue Seaside, CA 93955 |
| Martha Wright | 1744 Kenneth St. Seaside, CA 93955 |
| Martin Feeny | mfeeny@ix.netcom.com |
| Joe Geever | jgeever@surfrider.com |
| Sarah Damron | sdamron@surfrider.com |
| Charles Cech | chuck_cech@hotmail.com |
| Larry Parrish | lparrish@toast.net |
| Paula Pelot | ppelot@sbcglobal.net |
| Nancy Selfridge | self48@icloud.com |
| Lorraine O'Shea | loshea@csumb.net |
| James Toy | ToylandMRY@aol.com |
| Lindy Marrington | lindymarrington@sbcglobal.net |
| Maria Iskiw | marusia@sbcglobal.net |
| Kevin Kelly | kevinkelly831@yahoo.com |
| Francis Duda | frduda@gmail.com |
| William Genova | phatboy1950@yahoo.com |
| Dale Hekhuis | Dale93921@yahoo.com |
| Diann Cupples | dianncupples@sbcglobal.net |
| Robert Danzinger | bobdanzinger@mac.com |
| Luke Coletti | ljc@groknet.net |
| Rondelle Cagwin | cagwinronnie@gmail.com |
| Sustainable Energy and Development on Vessel (SEADOV) (Thomas Dinkel) | thomasdinkel@icloud.com |
| Peter Adler | Peter@drpeteradler.com |
| Anthony Jones | info@intakeworks.com |
| Dan Turner | Drdan1221@comcast.net |
| Susan Schiavone | s.schiavone@sbcglobal.net |
| Nan | Resident of Marina Address Unknown |
| Karen Arajo | Resident of Salinas Address Unknown |
| Anna Camta | Address Unknown |
| Andrew Letter | Resident of Marina Address Unknown |
| Maja Soyar | Resident of Marina Address Unknown |
| Tina Walsh | Resident of Marina |

| Name | Mailing Address |
|---------------------------|--|
| | Address Unknown |
| Arthur Deala | Resident of Marina Address Unknown |
| Teresa Pola | Resident of East Garrison Address Unknown |
| Michael Kennedy | Resident of Marina Address Unknown |
| Yul Vedospek | Resident of Marina Address Unknown |
| Darin [Last Name Unknown] | Address Unknown |
| Leah Spevissa | Resident of Marina Address Unknown |
| Helen Chambers | Resident of East Garrison Address Unknown |
| Stephanie Corseno | Resident of Marina Address Unknown |

RECEIVED

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877



MAY 29 2019

MPWMD

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: California-American Water Company
Mailing Address: 655 West Broadway, Suite 1410
City: San Diego Zip Code: 92101 Phone: (619) 446-4786

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Marina
2. Brief description of development being appealed:
The City of Marina Planning Commission's denial of CDP 2018-01 for the Monterey Peninsula Water Supply Project. The portions of the Project within Marina's Coastal Zone include seven slant wells and related infrastructure and transmission pipeline improvements.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
CEMEX Lapis Sand Mining Plant, 100 Lapis Road (APN 203-011-019-000), and Transportation Agency of Monterey County right-of-way.
4. Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

| | |
|--|-------|
| <u>TO BE COMPLETED BY COMMISSION:</u> | |
| APPEAL NO: | _____ |
| DATE FILED: | _____ |
| DISTRICT: | _____ |

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: March 7, 2019

7. Local government's file number (if any): CDP 2018-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

California-American Water Company; Attn: Ian Crooks
 655 West Broadway, Suite 1410
 San Diego, CA 92101

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Please see Attachment A.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**


- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see Attachment B.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: May 22, 2019

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize DJ Moore and Winston Stromberg (Latham & Watkins LLP)
to act as my/our representative and to bind me/us in all matters concerning this appeal.


Signature of Appellant(s)

Date: May 22, 2019

ATTACHMENT A

| Name | Mailing Address |
|------------------------|--|
| Kathryn Horning | California-American Water Company 655 West Broadway, Suite 1410 San Diego, CA 92101 |
| Ian Crooks | California-American Water Company 655 West Broadway, Suite 1410 San Diego, CA 92101 |
| Sarah Leeper | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Cathy Hongola-Baptista | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Demetrio Marquez | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| James Kelly | California-American Water Company 4701 Beloit Drive Sacramento, CA 95838 |
| Anthony Cerasuolo | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Jeffrey Linam | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Kevin Tilden | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Richard Svindland | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Nicholas Subias | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Catherine Stedman | California-American Water Company 511 Forest Lodge Rd, Suite 100 Pacific Grove, CA 93950 |
| DJ Moore | Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071-1560 |
| Winston Stromberg | Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071-1560 |

| Name | Mailing Address |
|------------------------------------|--|
| Tony Lombardo | Anthony Lombardo & Associates 144 W. Gabilan Street Salinas, CA 93901 |
| Rob Donlan | Ellison, Schneider & Harris, LLP 2600 Capitol Ave., Suite 400 Sacramento, CA 95816 |
| City of Marina Planning Commission | 211 Hillcrest Avenue Marina, California 93933 |
| Kathy Biala | City of Marina 211 Hillcrest Ave. Marina, CA 93933 |
| David Mack | City of Marina Planning Department 209 Cypress Avenue Marina, CA 93933 |
| Deborah Mall | Wellington Law Offices 857 Cass Street, Suite D Monterey, CA 93940 |
| Paul P. Spaulding | Farella Braun & Martel LLP 235 Montgomery Street, 17th Floor San Francisco, CA 94104 |
| Linda Sobczynski | Farella Braun & Martel LLP 235 Montgomery Street, 17th Floor San Francisco, CA 94104 |
| Keith Van Der Maaten | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |
| Howard Wilkins | Remy Moose Manley LLP 555 Capitol Mall #800 Sacramento, CA 95814 |
| Vera Nelson | EKI Environment & Water 577 Airport Blvd., Suite 500 Burlingame, CA 94010 |
| Ted Asch | Aqua Geo Frameworks 130360 County Road D Mitchell, Nebraska 69357 |
| Curtis Hopkins | Hopkins Groundwater Consultants, Inc. P.O. Box 3596 Ventura, CA 93006 |
| Matt Zefferman | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |
| Jan Shriner | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |

| Name | Mailing Address |
|---|---|
| Mark Fogelman | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Christopher Stiles | Remy Moose Manley LLP 555 Capitol Mall, Suite 800 Sacramento, CA 95814 |
| Ruth Stoner Muzzin | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Nathaniel Ku | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Sarah Myers | 122 28th Avenue San Francisco, CA 94121 |
| Department of the Army, Fort Ord Base Realignment and Closure Field Office | P.O. Box 5008, Building #4463, Gigling Road Monterey, CA 93944-5008 |
| Department of the Army, U.S. Army Installation Management Command | 1759 Lewis Road, Suite 210 Monterey, Ca 93944-3223 |
| Monterey Bay National Marine Sanctuary Advisory Council, Research Activity Panel | MBNMS Research Coordinator 99 Pacific Street, Bldg. 455A Monterey, CA 93940 |
| Department of the Army San Francisco District, U.S. Army Corps of Engineers | 1455 Market Street San Francisco, CA 94103-1398 |
| United States Environmental Protection Agency, Region IX | 75 Hawthorne Street San Francisco, CA 94105-3901 |
| California Department of Fish and Wildlife Central Region | 1234 East Shaw Avenue Fresno, California 93710 |
| California Department of Parks and Recreation, Monterey District | 2211 Garden Road Monterey, CA 93940 |
| California State Lands Commission | 100 Howe Avenue, Suite 100-South Sacramento, CA 95825-8202 |
| David Balgobin | State Water Resources Control Board 1001 I Street, 16-54C Sacramento, CA 95814 |
| Peter von Langen | California Regional Water Quality Control Board, Central Coast Region 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 |
| Monterey Bay Air Resources District | 24580 Silver Cloud Court Monterey, CA 93940 |

| Name | Mailing Address |
|---|--|
| David Stoldt | Monterey Peninsula Water Management District P.O. Box 85 Monterey, CA 93942 |
| Monterey Regional Waste Management District | P.O. Box 1670 Monterey, CA 93933-1670 |
| Karen Grimmer | National Oceanic & Atmospheric Admin. Monterey Bay National Marine Sanctuary 99 Pacific Street, Building 445a Monterey, CA 93940 |
| Mike Zeller | Transportation Agency for Monterey County 55-B Plaza Circle Salinas, CA 93901 |
| Kyle Dahl | U.S. Army Corps of Engineers, San Francisco District Regulatory Division, South Branch 1455 Market Street, 16th Floor San Francisco, CA 94103 |
| Cameron Johnson | U.S. Army Corps of Engineers, San Francisco District Regulatory Division, South Branch 1455 Market Street, 16th Floor San Francisco, CA 94103 |
| Jacob Martin | U.S. Fish and Wildlife Service 1100 Fiesta Way Watsonville, CA 95076 |
| Jimmy Panetta | United States House of Representatives 100 W. Alisal Street Salinas, CA 93901 |
| Mary Ann Carbone Fred Meuer | City of Sand City 1 Sylvan Park Sand City, CA 93955 |
| Paul Sciuto | Monterey One Water 5 Harris Court, Building D Monterey, CA 93940 |
| Bob Holden | Monterey One Water 5 Harris Court, Building D Monterey, CA 93940 |
| Jacqueline Meyer | National Oceanic and Atmospheric Administration - National Marine Fisheries Service 777 Sonoma Avenue, Room 325 Santa Rosa, CA 95404 |

| Name | Mailing Address |
|--------------------|--|
| Joyce Ambrosius | National Oceanic and Atmospheric Administration - National Marine Fisheries Service 777 Sonoma Avenue, Room 325 Santa Rosa, CA 95404 |
| Christine Lehnertz | National Park Service, Pacific West Region 333 Bush Street, Suite 500 San Francisco, CA 94104 |
| Stephen Testa | California Department of Conservation, State Mining and Geology Board 811 K Street, Suite 2015 Sacramento, CA 95814 |
| Brandon Sanderson | California Department of Fish and Wildlife 3196 S. Higuera Street, Suite A San Luis Obispo, CA 93401 |
| Eric Wilkins | California Department of Fish and Wildlife 20 Lower Ragsdale Drive, Suite 100 Monterey, CA 93940 |
| Jeffrey Single | California Department of Fish and Wildlife, Region IV Office 1234 East Shaw Avenue Fresno, CA 93710 |
| Reinie Jones | California Department of Transportation, District 5 50 Higuera Street San Luis Obispo, CA 93401 |
| Holly Wyer | California State Lands Commission 100 Howe Avenue, Suite 100-South Sacramento, CA 95825 |
| Steve Bachman | California State Parks, Monterey District 2211 Garden Road Monterey, CA 93940 |
| Amy Palkovic | California State Parks, Monterey District 2211 Garden Road Monterey, CA 93940 |
| John Avella | California State University Monterey Bay College of Business Valley Hall Suite B, Room B108 Seaside, CA 93955 |
| Eric Tynan | Castroville Community Services District 11499 Geil Street Castroville, CA 95012 |

| Name | Mailing Address |
|---------------------------------------|---|
| Gary Cursio | Monterey County Hospitality Association P.O. Box 223542 Carmel, CA 93922 |
| Kevin Dayton | Monterey Peninsula Chamber of Commerce 243 El Dorado Street, Suite 200 Monterey, CA 93940 |
| Yair Chaver | Adams, Broadwell, Joseph & Cardoza 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080 |
| Bill Kampe | 300 Forest Ave. Pacific Grove, CA 93950 |
| Melodie Chrislock | Public Water Now P.O. Box 1293 Monterey, CA 93942 |
| John Tilley | Coalition of Peninsula Businesses P.O. Box 223542 Carmel, CA 93922 |
| Peter Montier | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Ag Land Trust | P.O. Box 1731 Salinas, CA 93902 |
| California Unions for Reliable Energy | Adams Broadwell Joseph & Cardozo 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080-7037 |
| Carmel River Steelhead Association | P.O. Box 1183 Monterey, CA 93942 |
| Carmel River Watershed Conservancy | P.O. Box 223833 Carmel, CA 93922 |
| Mitchell Chadwick | 3001 Lava Ridge Court, Suite 120 Roseville, CA 95661 |
| N. Jerae Carlson | CEMEX 10100 Katy Freeway, Suite 300 Houston, TX 77043 |
| Margaret-Anne Coppernoll | Citizens for Just Water 3012 Crescent Street Marina, CA 93933 |
| Coalition of Peninsula Businesses | P.O. Box 223542 Carmel, CA 93922 |
| Deep Water Desal, LLC | 7532 Sandholdt Rd., Suite 6 Moss Landing, CA 95039 |
| Ecological Rights Foundation | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |

| Name | Mailing Address |
|--|---|
| Center for Biological Diversity | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |
| Our Children's Earth Foundation | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |
| Margaret Davis | Fort Ord Rec Users 5 Via San Joaquin, Suite C Monterey, CA 93940 |
| Land Watch Monterey County | P.O. Box 1876 Salinas, CA 93902 |
| Pebble Beach Company | Fenton & Keller 2801 Monterey-Salinas Highway P.O. Box 791 Monterey, CA 93942-0791 |
| Point Blue Conservation Science | 3820 Cypress Drive, #11 Petaluma, CA 94954 |
| Public Trust Alliance | Michael Warburton 187 East Blithedale Avenue Mill Valley, CA 94141 |
| Public Water Now | P.O. Box 1293 Monterey, CA 93942 |
| Salinas Valley Water Coalition | P.O. Box 2670 Greenfield, CA 93927 |
| Monterey County Farm Bureau | P.O. Box 1449 Salinas, CA 93902-1449 |
| Surfrider Foundation | Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| Water Ratepayers Association of the Monterey Peninsula | P.O. Box 146 Carmel, CA 93921 |
| Michael Baer | 560 Madison Street Monterey, CA 93940 |
| David Beech | 1450 Manor Rd. Monterey, CA 93940 |
| David Brown | 436 Diana Place Marina, CA 93933 |
| Bob Coble | 10 Primrose Circle Seaside, CA 93955 |
| Herbert Cortez | 221 Mortimer Lane Marina, CA 93933 |
| Bruce Delgado | 3037 Vaughan Ave. Marina, CA 93933 |

| Name | Mailing Address |
|------------------|--|
| Myrleen Fisher | 55 Wawona Road Carmel Valley, CA 93924 |
| David Gorman | 303 Whitney Place Marina, CA 93933 |
| Jane Haines | 601 Ocean View Blvd., Apt. 1, Pacific Grove, CA 93950 |
| Clifton Herrmann | 911 Center Street, Suite A Santa Cruz, CA 95060 |
| Juli Hoffman | 3201 Martin Circle Marina, CA 93933 |
| Thomas Moore | P.O. Box 8704 Monterey, CA 93943-8704 |
| Hebard Olsen | 99 Pacific Street Monterey, CA 93940 |
| Carol Reeb | Hopkins Marine Station 120 Oceanview Blvd. Pacific Grove, CA 93950 |
| Dick Rotter | 14500 Mountain Quail Rd. Corral de Tierra, CA 93908 |
| Roy Thomas | 99 Pacific Ave., Building 455a Monterey, CA 93940 |
| Unknown | 1025 Olmsted Ave Pacific Grove, CA 93950 |
| Roland Martin | 269 Del Mesa Carmel Carmel, CA 93923 |
| Marilyn Mason | 915 Toro Ct. Seaside, CA 93955 |
| DeAnna Yateman | Carmelo & 11th Carmel, CA 93921 |
| Juli Hofmann | 3201 Martin Circle Marina, CA 93933 |
| Ed Meachum | 360 Everett Drive Marina, CA 93933 |
| Fannie Auria | 3128 Crescent Ave #67 Marina, CA 93933 |
| Val Valdez | 420 Reservation Road #54 Marina, CA 93933 |
| Evan Hauge | 1911 Chennault Ct. Marina, CA 93933 |
| Peter R. Clark | 346-B Watson St. Monterey, CA 93940 |
| Johanna Pooler | 307 Whitney Marina, CA 93933 |

| Name | Mailing Address |
|--------------------|--|
| Diana Neptune | 13805 Sherman Blvd. East Garrison, CA 93933 |
| Gainell Johnson | 3338 Michael Dr. Marina, CA 93933 |
| Louis Auria | 230 Michael Dr. Marina, CA 93933 |
| Janet Fearnside | 3154 Crescent Ave. Marina, CA 93933 |
| Moiria LaMountain | 3137-2 Seacrest Ave. Marina, CA 93933 |
| B. Nolan | 3064 Bayer Drive Marina, CA 93933 |
| B. Svetlik | 128 Cypress Grove St. Marina, CA 93933 |
| Darren Franklin | Sheppard, Mullin, Richter & Hampton LLP 333 South Hope Street, 43rd Floor Los Angeles, CA 90071-1422 |
| Russell McGlothlin | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Norman Groot | Monterey County Farm Bureau P.O. Box 1449 Salinas, CA 93902-1449 |
| Bob McKenzie | Coalition of Peninsula Businesses P.O. Box 223542 Carmel, CA 93922 |
| Ron Weitzman | Water Plus P.O. Box 146 Carmel, CA 93921 |
| Layne Long | City of Marina 211 Hillcrest Ave. Marina, CA 93933 |
| Lisa Berkley | Citizens for Just Water 3201 Martin Circle Marina, CA 9399 |
| Nancy Isakson | Salinas Valley Water Coalition 3201 Playa Court Marina, CA 93933 |
| George Riley | Public Water Now 1198 Castro Road Monterey, CA 93940 |
| Robert Wellington | Wellington Law Offices 857 Cass Street, Suite D Monterey, CA 93940 |

| Name | Mailing Address |
|-----------------|--|
| Ben Harvey | City of Pacific Grove 300 Forest Ave. Pacific Grove, CA 93950 |
| David Laredo | De Lay & Laredo 606 Forest Ave. Pacific Grove, CA 93950 |
| Carlos Ramos | 1048 Broadway Ave. Seaside, CA 93955 |
| Christina Caro | Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080 |
| Gabriel Ross | Shute, Mihaley & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| John Farrow | M.R. Wolfe & Associates, P.C. 555 Sutter Street, Suite 405 San Francisco, CA 94102 |
| Vanessa Young | California Public Utilities Commission Public Advocates Office Legal Division, Room 4017 505 Van Ness Ave. San Francisco, CA 94102 |
| Laurens Silver | California Environmental Law Project P.O. Box 667 Mill Valley, CA 94942 |
| Dan Carroll | Downey Brand, LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814 |
| Jonas Minton | Planning and Conservation League 1107 9th Street, Suite 901 Sacramento, CA 95814 |
| Dennis Williams | Geoscience Support Services, Inc. P.O. Box 220 Claremont, CA 91711 |
| Anthony Tersol | Surfrider Foundation 319 Forest Ave. Pacific Grove, CA 93950 |
| Heidi Quinn | De Lay & Laredo 606 Forest Ave. Pacific Grove, CA 93950 |
| Michael Bowhay | Monterey Peninsula Country Club P.O. Box 2090 Pebble Beach, CA 93953-2090 |

| Name | Mailing Address |
|--------------------|--|
| S. Sannadan | Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080 |
| Roger Moore | Rossmann and Moore, LLP 380 Hayes Street San Francisco, CA 94102 |
| Anna Shimko | Burke, Williams & Sorenson 101 Howard Street, Suite 400 San Francisco, CA 94105 |
| Catherine Berte | Perkins Coie LLP 505 Howard Street, Suite 1000 San Francisco, CA 94105 |
| James McTarnaghan | Perkins Coie LLP 505 Howard Street, Suite 1000 San Francisco, CA 94105 |
| Sigrid Waggener | Burke, Williams & Sorenson 101 Howard Street, Suite 400 San Francisco, CA 94105 |
| Eric Zigas | Environmental Science Associates 550 Kearny Street, Suite 800 San Francisco, CA 94108-2512 |
| Vidhya Prabhakaran | Davis Wright Tremaine LLP 505 Montgomery Street, Suite 800 San Francisco, CA 94111 |
| Megan Myers | 110 Oxford Street San Francisco, CA 94134 |
| James Brezack | Brezack & Associates Planning 3000 Citrus Circle, Suite 210 Walnut Creek, CA 94598 |
| Patricia Nelson | Public Trust Alliance 130 Edward Ave. San Rafael, CA 94903 |
| Eric Robinson | Kronick Moskovitz Tiedermann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 |
| Lon House | 10645 N. Oracle Road, Suite 121-216 Oro Valley, AZ 85737 |
| Don Evans | 8550 West Charleston, Suite 102-394 Las Vegas, NV 89117 |
| Anne Beaumont | Perkins Coie LLP 11988 El Camino Real, Suite 350 San Diego, CA 92130 |

| Name | Mailing Address |
|-----------------|---|
| Laura Zagar | Perkins Coie LLP 11988 El Camino Real, Suite 350 San Diego, CA 92130 |
| Angela Howe | Surfrider Foundation P.O. Box 6010 San Clemente, CA 92674 |
| Caitlin Malone | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Jena Shoaf | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Frances Farina | De Lay & Laredo 389 Princeton Ave. Santa Barbara, CA 93111 |
| Charles McKee | County of Monterey 168 West Alisal St., 3rd Floor Salinas, CA 93901 |
| Shauna Lorance | Monterey County Water Resources Agency P.O. Box 930 Salinas, CA 93902 |
| Janet Brennan | Landwatch Monterey County P.O. Box 1876 Salinas, CA 93902 |
| Julie Engell | Landwatch Monterey County P.O. Box 1876 Salinas, CA 93902 |
| Lloyd Lowrey | Noland, Hamerly, Etienne & Hoss P.O. Box 2510 Salinas, CA 93902 |
| Jim Cullem | Monterey Peninsula Regional Water Authority P.O. Box 7202 Carmel, CA 93921 |
| Bridget Hoover | Monterey Bay National Marine Sanctuary 99 Pacific Street, Bldg. 455 Monterey, CA 93940 |
| John Forsythe | California Public Utilities Commission 180 Promenade Circle, Suite 115 Sacramento, CA 95834 |
| Arocles Aguilar | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |

| Name | Mailing Address |
|--------------------------|--|
| Helen W. Yee | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |
| Carrie Pratt | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |
| Michael G. Colantuono | Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945-5091 |
| David J. Ruderman | Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945-5091 |
| Xavier Becerra, Esq. | Attorney General of California State of California, Department of Justice Office of the Attorney General P.O. Box 944255 Sacramento, CA 94244-2550 |
| Dr. Rosemary Knight | Stanford University 450 Serra Mall Stanford, CA 94305 |
| Dennis Williams | Geoscience 620 Arrow Highway, Ste. 2000 La Verne, CA, 91750 |
| Tim Durbin | 2020 Research Park Drive, Suite 100 Davis, CA 95618 |
| Peter Leffler | Luhdorff & Scalmanini 505 14th Street, Suite 945 Oakland, CA 94612 |
| Roger Masuda | Griffith & Masuda 517 E. Olive Ave. Turlock, CA 95380 |
| Brian LeNeve | Carmel River Steelhead Association P.O. Box 1183 Monterey, CA 93942 |
| Margaret-Anne Coppernoll | Monterey County Democratic Central Committee P.O. Box 3024 Monterey, CA 93942 |
| Laurens Silver | California Environmental Law Project P.O. Box 667 Mill Valley, CA 94942 |

| Name | Mailing Address |
|----------------------|---|
| Luana Conley | Carmel Valley Association P.O. Box 157 Carmel Valley, CA 93924 |
| Ronald Wilson | CEMEX, Inc. 5180 Golden Foothill Parkway Suite 200 El Dorado Hills, CA 95762 |
| Robert Mullane | City of Carmel-by-the-Sea Community Planning P.O. Drawer G Carmel-by-the-Sea, CA 93921 |
| Daniel Dawson | City of Del Rey Oaks 650 Canyon Del Rey Road Del Rey Oaks, CA 93940 |
| Anita Shepherd-Sharp | City of Marina 211 Hillcrest Avenue Marina, CA 93933 |
| Margaret Davis | City of Marina Planning Commission 211 Hillcrest Avenue Marina, CA 93933 |
| Kim Kole | City of Monterey Planning Department 570 Pacific Street Monterey, CA 93940 |
| Anastazia Aziz | Community Development Department, Planning Division City of Pacific Grove 300 Forest Avenue Pacific Grove, CA 93940 |
| George Brehmer | Coldwell Banker Del Monte Realty-Rancho P.O. Box 22070 Carmel, CA 93922 |
| Steve Emerson | First Pacific Financial Services 3152 Ocean Terrace Marina, CA 93933 |
| Steve McNally | Hyatt Regency Monterey Hotel and Spa 1 Old Golf Course Road Monterey, CA 93940 |
| Bill Kocher | Marina Coast Water District 11 Reservation Road Marina, CA 93933 |
| Thomas Moore | Marina Coast Water District 11 Reservation Road Marina, CA 93933 |

| Name | Mailing Address |
|--------------------|---|
| Brienne Fitzgerald | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Julie Packard | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Cesar Lara | Monterey Bay Central Labor Council 931 E. Market Street Salinas, CA 93905 |
| Nelson Vega | Monterey Commercial Property Owners Association P.O. Box 1953 Monterey, CA 93942 |
| Sherwood Darington | Monterey County Agricultural Land Conservancy P.O. Box 1731 Salinas, CA 93902 |
| Marc Del Piero | Monterey County Agricultural Land Conservancy P.O. Box 1731 Salinas, CA 93902 |
| Kevin Stone | Monterey County Association of Realtors 201 A Calle Del Oaks Place Del Rey Oaks, CA 93940 |
| Patrick Treffry | Monterey County Health Department 1270 Natividad Road Salinas, CA 93906 |
| Sam Teel | Monterey County Hospitality Association P.O. Box 223542 Carmel, CA 93922 |
| Bob Schubert | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Robert Murdoch | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Mike Novo | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |

| Name | Mailing Address |
|-------------------|--|
| Andrew Leavitt | Monterey Marriott 350 Calle Principal Monterey, CA 93940 |
| Jody Hanson | Monterey Peninsula Chamber of Commerce 30 Ragsdale Drive Suite 200 Monterey, CA 93940 |
| Paul Bruno | Monterey Peninsula Engineering P.O. Box 2317 Monterey, CA 93942 |
| Tim Jensen | Monterey Peninsula Regional Park District 60 Garden Court #325 Monterey, CA 93940 |
| Andrea Baltzinger | Monterey Plaza Hotel & Spa 400 Cannery Row Monterey, CA 93940 |
| John Narigi | Monterey Plaza Hotel & Spa 400 Cannery Row Monterey, CA 93940 |
| Barton Lounsbury | Rossmann and Moore, LLP 2014 Shattuck Avenue Berkeley, CA 94704 |
| Molly Erickson | Stamp Ericson Law Offices 479 Pacific Street, Suite 1 Monterey, CA 93940 |
| J. Alan Fagan | The Mattox Group P.O. Box 987 Marina, CA 93933 |
| Harvey Billig | Casanova Street 25 SE 13th Avenue Carmel, CA 93921 |
| Patti Bradshaw | 3107 Flower Circle Marina, CA 93933 |
| Liz Billingsley | 401 Sunset Place Marina, CA 93933 |
| Harvey Biala | 3012 Crescent Street Marina, CA 93933 |
| Larry Parish | 27420 Schulte Rd Carmel, CA 93923 |
| Chandler Roland | 179 Palm Avenue Marina, CA 93933 |
| Ian Oglesby | 440 Harcourt Avenue Seaside, CA 93955 |

| Name | Mailing Address |
|-----------------------|---|
| Rick Heher | Monterey Peninsula Taxpayers Association P.O. Box 157 Monterey, CA 93942 |
| Susan Jordan | California Coastal Protection Network 906 Garden Street Santa Barbara, CA 93101 |
| Heather Hubanks | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Alan Cohen | Pacific Grove City Council 300 Forest Ave Pacific Grove, CA 93950 |
| Mary Ann Lefell | Monterey County Business Council P.O. Box 2746 Monterey, CA 93942 |
| Michelle Knight | Adventures by the Sea 299 Cannery Row Monterey, CA 93940 |
| Brent Reitz | Pebble Beach Company 1700 17-Mile Drive Pebble Beach, CA 93953 |
| Andrew Leavitt | 253 Bennett Court Marina, CA 93933 |
| Herbert Lusk | Bethel Missionary Babtist Church 390 Elm Avenue Seaside, CA 93955 |
| Carlos Ramos | Monterey/Santa Cruz Building and Construction Trades Council 10300 Merritt St. Castroville, CA 95012 |
| Ron Chesshire | Monterey/Santa Cruz Building and Construction Trades Council 10300 Merritt St. Castroville, CA 95012 |
| Stefanie Sekich-Quinn | Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| Barbara Meister | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Kathy Jensen | Rutan & Tucker LLP 611 Anton Boulevard, Suite 1400 Costa Mesa, CA 92626 |

| Name | Mailing Address |
|---|---|
| William Monning California State Senate | 99 Pacific Street, Suite 575-F Monterey, CA 93940 |
| Mark Stone California State Assembly | 99 Pacific Street #5550 Monterey, CA 93940 |
| William Bourcier, Ph.D. | 8586 Tesla Road Livermore, CA 94550 |
| Tom McMahon | Pacific Grove Downtown Business Improvement District 300 Forest Ave. Pacific Grove, CA 93950 |
| Peter Munteer | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Rene Poskoff | Coalition of Peninsula Businesses and Monterey County Hospitality Association |
| Jody Hansen | Coalition of Peninsula Businesses and Monterey County Hospitality Association |
| Seaside Basin Watermaster | 260 Garden Rd. Suite 228 Monterey, CA 93940 |
| Monterey Abalone Company | 160 Wharf #2 Monterey, CA 93940 |
| People's Moss Landing Desalination Project | 16 W. Gabilan St. Salinas, CA 93901 |
| Spragg and Associates | 420 Highland Ave. Manhattan Beach, CA 90266 |
| Andrew Bell | 3079 Hermitage Rd. Pebble Beach, CA 93953 |
| Michael Cate | PO Box 178 Carmel, CA 93921 |
| Stephen Collins | 26153 Legends Ct. Corral de Tierra, CA 93908 |
| Jean Donnelly | 759 Jewell Ave. Pacific Grove, CA 93950 |
| Christina Holston | 414 Granite St. Pacific Grove, CA 93950 |
| Steven Huish | 5459 Quail Meadows Dr. Carmel, CA 93923 |
| Safwat Malek | PO Box 1734 Pebble Beach, CA 93953 |
| Barbara Martin | 328 Neponset Rd. Salinas, CA 93908 |
| Darby Moss Worth | 8250 El Camino Estrada Carmel, CA 93923 |

| Name | Mailing Address |
|---|---|
| Virgil Piper | 3010 Eddy St. Marina, CA 93933 |
| Dan Presser | 6 Victoria Vale Monterey, CA 93940 |
| Lester Schwabe | 1407 Hoffman Ave. Monterey, CA 93940 |
| Frederick & Karin Schwoerke | 1160 Mono Ct. Seaside, CA 93955 |
| Doug Smith | Chapman Science Academic Center E207 6133 Fifth Avenue Seaside, CA 93955 |
| Martha Wright | 1744 Kenneth St. Seaside, CA 93955 |
| Martin Feeney | mfeeney@ix.netcom.com |
| Joe Geever | jgeever@surfrider.com |
| Sarah Damron | sdamron@surfrider.com |
| Charles Cech | chuck_cech@hotmail.com |
| Larry Parrish | lparrish@toast.net |
| Paula Pelot | pfpelot@sbcglobal.net |
| Nancy Selfridge | self48@icloud.com |
| Lorraine O'Shea | loshea@csumb.net |
| James Toy | ToylandMRY@aol.com |
| Lindy Marrington | lindymarrington@sbcglobal.net |
| Maria Iskiw | marusia@sbcglobal.net |
| Kevin Kelly | kevinkelly831@yahoo.com |
| Francis Duda | frduda@gmail.com |
| William Genova | phatboy1950@yahoo.com |
| Dale Hekhuis | Dale93921@yahoo.com |
| Diann Cupples | dianncupples@sbcglobal.net |
| Robert Danzinger | bobdanzinger@mac.com |
| Luke Coletti | ljc@groknet.net |
| Rondelle Cagwin | cagwinronnie@gmail.com |
| Sustainable Energy and Development on Vessel (SEADOV) (Thomas Dinkel) | thomasdinkel@icloud.com |
| Peter Adler | Peter@drpeteradler.com |
| Anthony Jones | info@intakeworks.com |
| Dan Turner | Drdan1221@comcast.net |
| Susan Schiavone | s.schiavone@sbcglobal.net |
| Nan | Resident of Marina Address Unknown |
| Karen Arajo | Resident of Salinas Address Unknown |

| Name | Mailing Address |
|---------------------------|--|
| Anna Camta | Address Unknown |
| Andrew Letter | Resident of Marina Address Unknown |
| Maja Soyar | Resident of Marina Address Unknown |
| Tina Walsh | Resident of Marina Address Unknown |
| Arthur Dealala | Resident of Marina Address Unknown |
| Teresa Pola | Resident of East Garrison Address Unknown |
| Michael Kennedy | Resident of Marina Address Unknown |
| Yul Vedospek | Resident of Marina Address Unknown |
| Darin [Last Name Unknown] | Address Unknown |
| Leah Spevissa | Resident of Marina Address Unknown |
| Helen Chambers | Resident of East Garrison Address Unknown |
| Stephanie Corseno | Resident of Marina Address Unknown |

ATTACHMENT B

Pursuant to Public Resources Code section 30603, subdivision (a)(5), and Coastal Act regulations section 13573, subdivision (a)(4), California-American Water Company (“Cal-Am”) hereby appeals the City of Marina Planning Commission’s denial of Coastal Development Permit application CDP 2018-01 (“CDP”) for those portions of the Monterey Peninsula Water Supply Project (“Project”) within the City’s Coastal Zone. On March 7, 2019, the Planning Commission adopted Resolution 2019-06, denying Cal-Am’s CDP application for the Project, based on the Planning Commission’s purported findings that the Project is inconsistent with the City’s Coastal Zoning Ordinance, the City’s Local Coastal Program (“LCP”) and the Coastal Act.¹ On March 13, 2019, Cal-Am appealed the Planning Commission’s denial to the Marina City Council. On April 29, 2019, Cal-Am withdrew its appeal due to bias in the City process, including demonstrated bias by a majority of the City Council. On May 10, 2019, the City issued its Final Local Action Notice regarding the CDP denial.

For the reasons set forth below, and in the February 13, 2019, and March 6, 2019, letters from Latham & Watkins LLP submitted to the Planning Commission on behalf of Cal-Am,² the Project may be approved because it conforms to the standards set forth in the City’s LCP and the Coastal Act’s public access policies. (See Pub. Resources Code, § 30603, subd. (b)(2).) Coastal Act section 30260 also allows the Project as a coastal-dependent industrial facility despite any potential inconsistency with the LCP. Therefore, the Coastal Commission should issue the CDP and find the Project consistent with the City’s LCP and the Coastal Act.

1. The Project Is Consistent with the LCP and Coastal Act Policies

As part of its CDP application, Cal-Am included proposed findings that demonstrate, based on substantial evidence in the record, how the Project will be consistent with the City’s LCP and the Coastal Act (“Proposed LCP Findings,” attached to Cal-Am’s CDP application). In addition, the certified final Environmental Impact Report/Environmental Impact Statement (“EIR/EIS”) prepared by the California Public Utilities Commission and Monterey Bay National Marine Sanctuary contains mitigation measures to avoid or minimize potential environmental impacts within the City’s Coastal Zone. Further, as set forth below and in greater detail in Cal-Am’s letters to the City Planning Commission, the Project is consistent with the LCP and Coastal Act. (See Feb. 13, 2019 Letter, pp. A-10 to A-14; March 6, 2019 Letter, pp. A-5 to A-11.)

- **Protecting Sensitive Habitat Areas:** The EIR/EIS thoroughly evaluated potential adverse impacts to environmentally sensitive habitat areas (“ESHA”) and dune habitat. (Final EIR/EIS, pp. 4.6-35 to 4.6-36, 4.6-74, 4.6-80, 4.6-129, 8.5-698.) Based on substantial evidence, the EIR/EIS concluded that the Project will not result in significant physical impacts to

¹ Cal-Am also objects to the Planning Commission’s denial of the CDP based on CEQA considerations, as the City is permitted to review the Project’s consistency only with the City’s LCP, not CEQA. (See Pub. Resources Code, § 30600.5, subd. (c).) Nonetheless, Cal-Am’s objections to the Planning Commission’s CEQA determinations do not form the basis for this appeal.

² These letters were submitted to Coastal Commission staff at the time they were submitted to the Planning Commission and are already part of the Coastal Commission’s record.

terrestrial biological resources. (*Id.*, pp. 4.6-198, 4.6-201, 4.6-204 to 4.6-205, 4.6-215, 4.6-258 to 4.6-259.)

- **Protecting Marine Resources:** The EIR/EIS fully analyzed impacts to marine resources and properly concluded any impacts would be less than significant with mitigation. (Final EIR/EIS, pp. 4.5-47 to 4.5-72.)

- **Preventing Interference with Public Access and Protecting Coastal Recreation:** The EIR/EIS confirms that the Project will not impede beach access or coastal recreation because the Project does not require construction on the beach. (Final EIR/EIS, pp. 4.8-35, 6-54.) The CEMEX Sand Mining Plant, where the slant well network would be located, is privately owned, and there is no existing public access to the slant well construction site. (*Id.*, p. 8.7-214.)

- **Protecting Archaeological and Cultural Resources:** The EIR/EIS and California's State Historic Preservation Officer both determined that the Project would not adversely affect historic properties. (Final EIR/EIS, pp. 8.6-535, 8.6-613; CDP Application, Att. B, p. 3.) The Lapis Sand Mining Plant District is not within the Project's Area of Potential Effects, and the Final EIR/EIS imposes conservative mitigation measures to prevent any harm to potentially undiscovered archaeological or cultural resources. (Final EIR/EIS, pp. 8.6-535, 8.6-613.)

- **Preventing Depletion of Groundwater Supplies:** The EIR/EIS fully evaluated potential groundwater impacts and appropriately concluded that, based on substantial evidence, the Project would result in less-than-significant impacts to groundwater supplies. (Final EIR/EIS, pp. 4.4-62, 4.64 to 4.6-87.) Further, the Project will not withdraw water from any aquifers that the City uses for its municipal water supply. (*Id.*, p. 4.4-69.)

- **Protecting Scenic and Visual Qualities:** The aboveground components of the slant well network would not obstruct views of the ocean and would not be visible outside of the CEMEX property. (See CDP Application, Proposed LCP Findings, p. 16.)

- **Preventing Erosion and Geologic Instability:** The Final EIR/EIS thoroughly assessed coastal erosion impacts resulting from sea level rise and determined that the Project infrastructure would not be adversely affected because it would be located underground or be designed to withstand inundation. (Final EIR/EIS, pp. 4.3-16, 4.3-121 to 4.3-122.)

2. The Project Satisfies Coastal Act Section 30260

Coastal Act section 30260 permits development of the Project on the CEMEX property because:

where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section . . . if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely

affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

As discussed below and in the City's record, these criteria have been satisfied. (See Feb. 13, 2019 Letter, pp. A-14 to A-19; March 6, 2019 Letter, pp. A-11 to A-16.)

A. The Project Is a Coastal-Dependent Industrial Facility

The Project's subsurface slant wells and associated infrastructure constitute a "coastal-dependent industrial facility," as they must be located adjacent to the coast to function, and the Project involves the processing of raw materials (primarily seawater). (See Feb. 13, 2019 Letter, pp. A-15 to A-16; March 6, 2019 Letter, pp. A-11 to A-12.)

The Final EIR/EIS explicitly states that the Project must be located adjacent to the coast because the slant wells will "extend under the seafloor within the [Monterey Bay National Marine Sanctuary]" to draw saline water from aquifers that extend beneath the ocean floor. (Final EIR/EIS, pp. 3-17 to 3-18.) The California Public Utilities Commission's Decision D.18-09-017 also confirms that "[t]he supply water for the MPWSP will be via underground slant wells that draw water from the aquifers that extend underneath the ocean and would be recharged primarily by seawater." (Decision D.18-09-017, p. 173.) Because the water removed by slant well pumping would be recharged with seawater (Final EIR/EIS, pp. 4.4-69 to 4.4-70, 8.5-570 to 8.5-580), the Project cannot be moved inland, or it would change the entire basis for the Project and the associated modeling that ensures the Project will withdraw primarily seawater (approximately 96%). (*Id.*, p. 4.4-56.)

B. Alternative Locates Are Infeasible or More Environmentally Damaging

Alternative locations are infeasible or more environmentally damaging, as discussed in Cal-Am's Proposed LCP Findings and the Final EIR/EIS. (Proposed LCP Findings, pp. 19-20; Final EIR/EIS, pp. 5.4-1 to 5.4-59.) The Project's location at the CEMEX site also offers environmental advantages over other alternatives, such as the use of an existing outfall; no construction on the seafloor; avoiding impingement and entrainment of an open ocean intake; less than significant impacts on groundwater resources, surface water resources, and marine biological resources; and infrastructure that would be located in a previously-disturbed area. Further, the Planning Commission offered no feasible alternatives.

C. The Project Will Promote the Public Welfare

Not approving the Project would adversely affect the public welfare. (See March 6, 2019 Letter, pp. 20-21.) Per an order from the State Water Resources Control Board, Cal-Am must reduce its water withdrawals from the Carmel River, and the Project represents the culmination of almost two decades of efforts to facilitate the required reductions and provide necessary replacement water to the region. Without the Project, a deficit between available water supplies and total demand will result and worsen over time, potentially leading to prohibitions on all or specified non-essential water uses. (*Id.*, p. 21.) Further, because the Project would provide a water supply to replace that obtained from the Carmel River, the Project will benefit the river watershed. (Final EIR/EIS, p. 4.6-126.) In addition, the Project "addresses the City of Marina's values by mitigating the negative effects on the City" and "reflects the community values of

others” by supporting “agriculture, tourism, education, and research, and providing necessary water and jobs” in the region. (Decision, D.18-09-017, p. 158.)

D. Adverse Environmental Impacts Are Mitigated to the Maximum Extent Feasible

Adverse environmental effects are mitigated to the maximum extent feasible. For example, the Final EIR/EIS imposes nineteen mitigation measures alone that would mitigate the Project’s potential impacts to terrestrial biological resources in the City’s Coastal Zone to the maximum extent feasible. (See Proposed LCP Findings, pp. 21-22.) The Final EIR/EIS also imposes mitigation measures that will reduce impacts to other environmental resource areas to the maximum extent feasible. (See *id.*, p. 22 [citing Final EIR/EIS, Table ES-2].)

* * * * *

In sum, the Project conforms to the policies set forth in the City’s LCP and the Coastal Act. The Project may also be approved under Coastal Act section 30260 as a coastal-dependent industrial facility. As such, Cal-Am respectfully requests that the City Council approve and issue the CDP for the Project.

RECEIVED

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

MAY 31 2019



MPWMD

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Castroville Community Services District, Attn: Eric Tynan, GM

Mailing Address: 11499 Geil Street

City: Castroville Zip Code: 95012 Phone: (831) 633-2560

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Marina

2. Brief description of development being appealed:

The City of Marina Planning Commission's denial of California-American Water Company's CDP for the Monterey Peninsula Water Supply Project (CDP 2018-01).

3. Development's location (street address, assessor's parcel no., cross street, etc.):

CEMEX Lapis Sand Mining Plant, 100 Lapis Road (APN 203-011-019-000), and Transportation Agency of Monterey County right-of-way.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: March 7, 2019 (FLAN May 10,2019)

7. Local government's file number (if any): CDP 2018-01

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

California-American Water Company
 655 West Broadway, Suite 1410
 San Diego, CA 92101

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) See Attachment A.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:


- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attachment B.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 5-28-19

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Castroville Community Services District Coastal Appeal

ATTACHMENT A

| Name | Mailing Address |
|------------------------|--|
| Kathryn Horning | California-American Water Company 655 West Broadway, Suite 1410 San Diego, CA 92101 |
| Ian Crooks | California-American Water Company 655 West Broadway, Suite 1410 San Diego, CA 92101 |
| Sarah Leeper | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Cathy Hongola-Baptista | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Demetrio Marquez | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| James Kelly | California-American Water Company 4701 Beloit Drive Sacramento, CA 95838 |
| Anthony Cerasuolo | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Jeffrey Linam | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Kevin Tilden | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Richard Svindland | California-American Water Company 655 W. Broadway, Suite 1410 San Diego, CA 92101 |
| Nicholas Subias | California-American Water 555 Montgomery Street, Suite 816 San Francisco, CA 94111 |
| Catherine Stedman | California-American Water Company 511 Forest Lodge Rd, Suite 100 Pacific Grove, CA 93950 |
| DJ Moore | Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071-1560 |

| Name | Mailing Address |
|------------------------------------|--|
| Winston Stromberg | Latham & Watkins LLP 355 South Grand Avenue, Suite 100 Los Angeles, CA 90071-1560 |
| Tony Lombardo | Anthony Lombardo & Associates 144 W. Gabilan Street Salinas, CA 93901 |
| Rob Donlan | Ellison, Schneider & Harris, LLP 2600 Capitol Ave., Suite 400 Sacramento, CA 95816 |
| City of Marina Planning Commission | 211 Hillcrest Avenue Marina, California 93933 |
| Kathy Biala | City of Marina 211 Hillcrest Ave. Marina, CA 93933 |
| David Mack | City of Marina Planning Department 209 Cypress Avenue Marina, CA 93933 |
| Deborah Mall | Wellington Law Offices 857 Cass Street, Suite D Monterey, CA 93940 |
| Paul P. Spaulding | Farella Braun & Martel LLP 235 Montgomery Street, 17th Floor San Francisco, CA 94104 |
| Linda Sobczynski | Farella Braun & Martel LLP 235 Montgomery Street, 17th Floor San Francisco, CA 94104 |
| Keith Van Der Maaten | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |
| Howard Wilkins | Remy Moose Manley LLP 555 Capitol Mall #800 Sacramento, CA 95814 |
| Vera Nelson | EKI Environment & Water 577 Airport Blvd., Suite 500 Burlingame, CA 94010 |
| Ted Asch | Aqua Geo Frameworks 130360 County Road D Mitchell, Nebraska 69357 |
| Curtis Hopkins | Hopkins Groundwater Consultants, Inc. P.O. Box 3596 Ventura, CA 93006 |
| Matt Zefferman | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |

| Name | Mailing Address |
|---|---|
| Jan Shriner | Marina Coast Water District 11 Reservation Road Marina, CA 93933-2099 |
| Mark Fogelman | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Christopher Stiles | Remy Moose Manley LLP 555 Capitol Mall, Suite 800 Sacramento, CA 95814 |
| Ruth Stoner Muzzin | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Nathaniel Ku | Friedman & Springwater LLP 350 Sansome Street, Suite 210 San Francisco, CA 94104 |
| Sarah Myers | 122 28th Avenue San Francisco, CA 94121 |
| Department of the Army, Fort Ord Base Realignment and Closure Field Office | P.O. Box 5008, Building #4463, Gigling Road Monterey, CA 93944-5008 |
| Department of the Army, U.S. Army Installation Management Command | 1759 Lewis Road, Suite 210 Monterey, Ca 93944-3223 |
| Monterey Bay National Marine Sanctuary Advisory Council, Research Activity Panel | MBNMS Research Coordinator 99 Pacific Street, Bldg. 455A Monterey, CA 93940 |
| Department of the Army San Francisco District, U.S. Army Corps of Engineers | 1455 Market Street San Francisco, CA 94103-1398 |
| United States Environmental Protection Agency, Region IX | 75 Hawthorne Street San Francisco, CA 94105-3901 |
| California Department of Fish and Wildlife Central Region | 1234 East Shaw Avenue Fresno, California 93710 |
| California Department of Parks and Recreation, Monterey District | 2211 Garden Road Monterey, CA 93940 |
| California State Lands Commission | 100 Howe Avenue, Suite 100-South Sacramento, CA 95825-8202 |
| David Balgobin | State Water Resources Control Board 1001 I Street, 16-54C Sacramento, CA 95814 |
| Peter von Langen | California Regional Water Quality Control Board, Central Coast Region 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 |
| Monterey Bay Air Resources District | 24580 Silver Cloud Court |

| Name | Mailing Address |
|---|--|
| | Monterey, CA 93940 |
| David Stoldt | Monterey Peninsula Water Management District P.O. Box 85 Monterey, CA 93942 |
| Monterey Regional Waste Management District | P.O. Box 1670 Monterey, CA 93933-1670 |
| Karen Grimmer | National Oceanic & Atmospheric Admin. Monterey Bay National Marine Sanctuary 99 Pacific Street, Building 445a Monterey, CA 93940 |
| Mike Zeller | Transportation Agency for Monterey County 55-B Plaza Circle Salinas, CA 93901 |
| Kyle Dahl | U.S. Army Corps of Engineers, San Francisco District Regulatory Division, South Branch 1455 Market Street, 16th Floor San Francisco, CA 94103 |
| Cameron Johnson | U.S. Army Corps of Engineers, San Francisco District Regulatory Division, South Branch 1455 Market Street, 16th Floor San Francisco, CA 94103 |
| Jacob Martin | U.S. Fish and Wildlife Service 1100 Fiesta Way Watsonville, CA 95076 |
| Jimmy Panetta | United States House of Representatives 100 W. Alisal Street Salinas, CA 93901 |
| Mary Ann Carbone Fred Meuer | City of Sand City 1 Sylvan Park Sand City, CA 93955 |
| Paul Sciuto | Monterey One Water 5 Harris Court, Building D Monterey, CA 93940 |
| Bob Holden | Monterey One Water 5 Harris Court, Building D Monterey, CA 93940 |
| Jacqueline Meyer | National Oceanic and Atmospheric Administration - National Marine Fisheries Service 777 Sonoma Avenue, Room 325 Santa Rosa, CA 95404 |

| Name | Mailing Address |
|--------------------|--|
| Joyce Ambrosius | National Oceanic and Atmospheric Administration - National Marine Fisheries Service 777 Sonoma Avenue, Room 325 Santa Rosa, CA 95404 |
| Christine Lehnertz | National Park Service, Pacific West Region 333 Bush Street, Suite 500 San Francisco, CA 94104 |
| Stephen Testa | California Department of Conservation, State Mining and Geology Board 811 K Street, Suite 2015 Sacramento, CA 95814 |
| Brandon Sanderson | California Department of Fish and Wildlife 3196 S. Higuera Street, Suite A San Luis Obispo, CA 93401 |
| Eric Wilkins | California Department of Fish and Wildlife 20 Lower Ragsdale Drive, Suite 100 Monterey, CA 93940 |
| Jeffrey Single | California Department of Fish and Wildlife, Region IV Office 1234 East Shaw Avenue Fresno, CA 93710 |
| Reinie Jones | California Department of Transportation, District 5 50 Higuera Street San Luis Obispo, CA 93401 |
| Holly Wyer | California State Lands Commission 100 Howe Avenue, Suite 100-South Sacramento, CA 95825 |
| Steve Bachman | California State Parks, Monterey District 2211 Garden Road Monterey, CA 93940 |
| Amy Palkovic | California State Parks, Monterey District 2211 Garden Road Monterey, CA 93940 |
| John Avella | California State University Monterey Bay College of Business Valley Hall Suite B, Room B108 Seaside, CA 93955 |
| Eric Tynan | Castroville Community Services District 11499 Geil Street Castroville, CA 95012 |
| Gary Cursio | Monterey County Hospitality Association P.O. Box 223542 |

| Name | Mailing Address |
|---------------------------------------|---|
| | Carmel, CA 93922 |
| Kevin Dayton | Monterey Peninsula Chamber of Commerce 243 El Dorado Street, Suite 200 Monterey, CA 93940 |
| Yair Chaver | Adams, Broadwell, Joseph & Cardoza 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080 |
| Bill Kampe | 300 Forest Ave. Pacific Grove, CA 93950 |
| Melodie Chrislock | Public Water Now P.O. Box 1293 Monterey, CA 93942 |
| John Tilley | Coalition of Peninsula Businesses P.O. Box 223542 Carmel, CA 93922 |
| Peter Montier | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Ag Land Trust | P.O. Box 1731 Salinas, CA 93902 |
| California Unions for Reliable Energy | Adams Broadwell Joseph & Cardozo 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080-7037 |
| Carmel River Steelhead Association | P.O. Box 1183 Monterey, CA 93942 |
| Carmel River Watershed Conservancy | P.O. Box 223833 Carmel, CA 93922 |
| Mitchell Chadwick | 3001 Lava Ridge Court, Suite 120 Roseville, CA 95661 |
| N. Jerae Carlson | CEMEX 10100 Katy Freeway, Suite 300 Houston, TX 77043 |
| Margaret-Anne Coppernoll | Citizens for Just Water 3012 Crescent Street Marina, CA 93933 |
| Coalition of Peninsula Businesses | P.O. Box 223542 Carmel, CA 93922 |
| Deep Water Desal, LLC | 7532 Sandholdt Rd., Suite 6 Moss Landing, CA 95039 |
| Ecological Rights Foundation | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |
| Center for Biological Diversity | Ecology Law Center P.O. Box 1000 |

| Name | Mailing Address |
|--|---|
| | Santa Cruz, CA 95061 |
| Our Children's Earth Foundation | Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 |
| Margaret Davis | Fort Ord Rec Users 5 Via San Joaquin, Suite C Monterey, CA 93940 |
| Land Watch Monterey County | P.O. Box 1876 Salinas, CA 93902 |
| Pebble Beach Company | Fenton & Keller 2801 Monterey-Salinas Highway P.O. Box 791 Monterey, CA 93942-0791 |
| Point Blue Conservation Science | 3820 Cypress Drive, #11 Petaluma, CA 94954 |
| Public Trust Alliance | Michael Warburton 187 East Blithedale Avenue Mill Valley, CA 94141 |
| Public Water Now | P.O. Box 1293 Monterey, CA 93942 |
| Salinas Valley Water Coalition | P.O. Box 2670 Greenfield, CA 93927 |
| Monterey County Farm Bureau | P.O. Box 1449 Salinas, CA 93902-1449 |
| Surfrider Foundation | Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| Water Ratepayers Association of the Monterey Peninsula | P.O. Box 146 Carmel, CA 93921 |
| Michael Baer | 560 Madison Street Monterey, CA 93940 |
| David Beech | 1450 Manor Rd. Monterey, CA 93940 |
| David Brown | 436 Diana Place Marina, CA 93933 |
| Bob Coble | 10 Primrose Circle Seaside, CA 93955 |
| Herbert Cortez | 221 Mortimer Lane Marina, CA 93933 |
| Bruce Delgado | 3037 Vaughan Ave. Marina, CA 93933 |
| Myrleen Fisher | 55 Wawona Road Carmel Valley, CA 93924 |
| David Gorman | 303 Whitney Place |

| Name | Mailing Address |
|------------------|--|
| | Marina, CA 93933 |
| Jane Haines | 601 Ocean View Blvd., Apt. 1, Pacific Grove, CA 93950 |
| Clifton Herrmann | 911 Center Street, Suite A Santa Cruz, CA 95060 |
| Juli Hoffman | 3201 Martin Circle Marina, CA 93933 |
| Thomas Moore | P.O. Box 8704 Monterey, CA 93943-8704 |
| Hebard Olsen | 99 Pacific Street Monterey, CA 93940 |
| Carol Reeb | Hopkins Marine Station 120 Oceanview Blvd. Pacific Grove, CA 93950 |
| Dick Rotter | 14500 Mountain Quail Rd. Corral de Tierra, CA 93908 |
| Roy Thomas | 99 Pacific Ave., Building 455a Monterey, CA 93940 |
| Unknown | 1025 Olmsted Ave Pacific Grove, CA 93950 |
| Roland Martin | 269 Del Mesa Carmel Carmel, CA 93923 |
| Marilyn Mason | 915 Toro Ct. Seaside, CA 93955 |
| DeAnna Yateman | Carmelo & 11th Carmel, CA 93921 |
| Juli Hofmann | 3201 Martin Circle Marina, CA 93933 |
| Ed Meachum | 360 Everett Drive Marina, CA 93933 |
| Fannie Auria | 3128 Crescent Ave #67 Marina, CA 93933 |
| Val Valdez | 420 Reservation Road #54 Marina, CA 93933 |
| Evan Hauge | 1911 Chennault Ct. Marina, CA 93933 |
| Peter R. Clark | 346-B Watson St. Monterey, CA 93940 |
| Johanna Pooler | 307 Whitney Marina, CA 93933 |
| Diana Neptune | 13805 Sherman Blvd. East Garrison, CA 93933 |
| Gainell Johnson | 3338 Michael Dr. Marina, CA 93933 |

| Name | Mailing Address |
|--------------------|--|
| Louis Auria | 230 Michael Dr. Marina, CA 93933 |
| Janet Fearnside | 3154 Crescent Ave. Marina, CA 93933 |
| Moira LaMountain | 3137-2 Seacrest Ave. Marina, CA 93933 |
| B. Nolan | 3064 Bayer Drive Marina, CA 93933 |
| B. Svetlik | 128 Cypress Grove St. Marina, CA 93933 |
| Darren Franklin | Sheppard, Mullin, Richter & Hampton LLP 333 South Hope Street, 43rd Floor Los Angeles, CA 90071-1422 |
| Russell McGlothlin | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Norman Groot | Monterey County Farm Bureau P.O. Box 1449 Salinas, CA 93902-1449 |
| Bob McKenzie | Coalition of Peninsula Businesses P.O. Box 223542 Carmel, CA 93922 |
| Ron Weitzman | Water Plus P.O. Box 146 Carmel, CA 93921 |
| Layne Long | City of Marina 211 Hillcrest Ave. Marina, CA 93933 |
| Lisa Berkley | Citizens for Just Water 3201 Martin Circle Marina, CA 9399 |
| Nancy Isakson | Salinas Valley Water Coalition 3201 Playa Court Marina, CA 93933 |
| George Riley | Public Water Now 1198 Castro Road Monterey, CA 93940 |
| Robert Wellington | Wellington Law Offices 857 Cass Street, Suite D Monterey, CA 93940 |
| Ben Harvey | City of Pacific Grove 300 Forest Ave. Pacific Grove, CA 93950 |
| David Laredo | De Lay & Laredo |

| Name | Mailing Address |
|-----------------|--|
| | 606 Forest Ave. Pacific Grove, CA 93950 |
| Carlos Ramos | 1048 Broadway Ave. Seaside, CA 93955 |
| Christina Caro | Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080 |
| Gabriel Ross | Shute, Mihaley & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| John Farrow | M.R. Wolfe & Associates, P.C. 555 Sutter Street, Suite 405 San Francisco, CA 94102 |
| Vanessa Young | California Public Utilities Commission Public Advocates Office Legal Division, Room 4017 505 Van Ness Ave. San Francisco, CA 94102 |
| Laurens Silver | California Environmental Law Project P.O. Box 667 Mill Valley, CA 94942 |
| Dan Carroll | Downey Brand, LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814 |
| Jonas Minton | Planning and Conservation League 1107 9th Street, Suite 901 Sacramento, CA 95814 |
| Dennis Williams | Geoscience Support Services, Inc. P.O. Box 220 Claremont, CA 91711 |
| Anthony Tersol | Surfrider Foundation 319 Forest Ave. Pacific Grove, CA 93950 |
| Heidi Quinn | De Lay & Laredo 606 Forest Ave. Pacific Grove, CA 93950 |
| Michael Bowhay | Monterey Peninsula Country Club P.O. Box 2090 Pebble Beach, CA 93953-2090 |
| S. Sannadan | Adams Broadwell Joseph & Cardozo 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080 |
| Roger Moore | Rossmann and Moore, LLP 380 Hayes Street |

| Name | Mailing Address |
|--------------------|--|
| | San Francisco, CA 94102 |
| Anna Shimko | Burke, Williams & Sorenson 101 Howard Street, Suite 400 San Francisco, CA 94105 |
| Catherine Berte | Perkins Coie LLP 505 Howard Street, Suite 1000 San Francisco, CA 94105 |
| James McTarnaghan | Perkins Coie LLP 505 Howard Street, Suite 1000 San Francisco, CA 94105 |
| Sigrid Waggener | Burke, Williams & Sorenson 101 Howard Street, Suite 400 San Francisco, CA 94105 |
| Eric Zigas | Environmental Science Associates 550 Kearny Street, Suite 800 San Francisco, CA 94108-2512 |
| Vidhya Prabhakaran | Davis Wright Tremaine LLP 505 Montgomery Street, Suite 800 San Francisco, CA 94111 |
| Megan Myers | 110 Oxford Street San Francisco, CA 94134 |
| James Brezack | Brezack & Associates Planning 3000 Citrus Circle, Suite 210 Walnut Creek, CA 94598 |
| Patricia Nelson | Public Trust Alliance 130 Edward Ave. San Rafael, CA 94903 |
| Eric Robinson | Kronick Moskovitz Tiedermann & Girard 400 Capitol Mall, 27th Floor Sacramento, CA 95814 |
| Lon House | 10645 N. Oracle Road, Suite 121-216 Oro Valley, AZ 85737 |
| Don Evans | 8550 West Charleston, Suite 102-394 Las Vegas, NV 89117 |
| Anne Beaumont | Perkins Coie LLP 11988 El Camino Real, Suite 350 San Diego, CA 92130 |
| Laura Zagar | Perkins Coie LLP 11988 El Camino Real, Suite 350 San Diego, CA 92130 |
| Angela Howe | Surfrider Foundation P.O. Box 6010 San Clemente, CA 92674 |
| Caitlin Malone | Brownstein Hyatt Farber Schreck, LLP |

| Name | Mailing Address |
|-----------------|---|
| | 1020 State Street Santa Barbara, CA 93101 |
| Jena Shoaf | Brownstein Hyatt Farber Schreck, LLP 1020 State Street Santa Barbara, CA 93101 |
| Frances Farina | De Lay & Laredo 389 Princeton Ave. Santa Barbara, CA 93111 |
| Charles McKee | County of Monterey 168 West Alisal St., 3rd Floor Salinas, CA 93901 |
| Shauna Lorance | Monterey County Water Resources Agency P.O. Box 930 Salinas, CA 93902 |
| Janet Brennan | Landwatch Monterey County P.O. Box 1876 Salinas, CA 93902 |
| Julie Engell | Landwatch Monterey County P.O. Box 1876 Salinas, CA 93902 |
| Lloyd Lowrey | Noland, Hamerly, Etienne & Hoss P.O. Box 2510 Salinas, CA 93902 |
| Jim Cullem | Monterey Peninsula Regional Water Authority P.O. Box 7202 Carmel, CA 93921 |
| Bridget Hoover | Monterey Bay National Marine Sanctuary 99 Pacific Street, Bldg. 455 Monterey, CA 93940 |
| John Forsythe | California Public Utilities Commission 180 Promenade Circle, Suite 115 Sacramento, CA 95834 |
| Arocles Aguilar | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |
| Helen W. Yee | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |
| Carrie Pratt | California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102 |

| Name | Mailing Address |
|--------------------------|--|
| Michael G. Colantuono | Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945-5091 |
| David J. Ruderman | Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945-5091 |
| Xavier Becerra, Esq. | Attorney General of California State of California, Department of Justice Office of the Attorney General P.O. Box 944255 Sacramento, CA 94244-2550 |
| Dr. Rosemary Knight | Stanford University 450 Serra Mall Stanford, CA 94305 |
| Dennis Williams | Geoscience 620 Arrow Highway, Ste. 2000 La Verne, CA, 91750 |
| Tim Durbin | 2020 Research Park Drive, Suite 100 Davis, CA 95618 |
| Peter Leffler | Luhdorff & Scalmanini 505 14th Street, Suite 945 Oakland, CA 94612 |
| Roger Masuda | Griffith & Masuda 517 E. Olive Ave. Turlock, CA 95380 |
| Brian LeNeve | Carmel River Steelhead Association P.O. Box 1183 Monterey, CA 93942 |
| Margaret-Anne Coppernoll | Monterey County Democratic Central Committee P.O. Box 3024 Monterey, CA 93942 |
| Laurens Silver | California Environmental Law Project P.O. Box 667 Mill Valley, CA 94942 |
| Luana Conley | Carmel Valley Association P.O. Box 157 Carmel Valley, CA 93924 |
| Ronald Wilson | CEMEX, Inc. 5180 Golden Foothill Parkway Suite 200 El Dorado Hills, CA 95762 |
| Robert Mullane | City of Carmel-by-the-Sea |

| Name | Mailing Address |
|----------------------|---|
| | Community Planning P.O. Drawer G Carmel-by-the-Sea, CA 93921 |
| Daniel Dawson | City of Del Rey Oaks 650 Canyon Del Rey Road Del Rey Oaks, CA 93940 |
| Anita Shepherd-Sharp | City of Marina 211 Hillcrest Avenue Marina, CA 93933 |
| Margaret Davis | City of Marina Planning Commission 211 Hillcrest Avenue Marina, CA 93933 |
| Kim Kole | City of Monterey Planning Department 570 Pacific Street Monterey, CA 93940 |
| Anastazia Aziz | Community Development Department, Planning Division City of Pacific Grove 300 Forest Avenue Pacific Grove, CA 93940 |
| George Brehmer | Coldwell Banker Del Monte Realty-Rancho P.O. Box 22070 Carmel, CA 93922 |
| Steve Emerson | First Pacific Financial Services 3152 Ocean Terrace Marina, CA 93933 |
| Steve McNally | Hyatt Regency Monterey Hotel and Spa 1 Old Golf Course Road Monterey, CA 93940 |
| Bill Kocher | Marina Coast Water District 11 Reservation Road Marina, CA 93933 |
| Thomas Moore | Marina Coast Water District 11 Reservation Road Marina, CA 93933 |
| Brienne Fitzgerald | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Julie Packard | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Cesar Lara | Monterey Bay Central Labor Council 931 E. Market Street Salinas, CA 93905 |

| Name | Mailing Address |
|--------------------|--|
| Nelson Vega | Monterey Commercial Property Owners Association P.O. Box 1953 Monterey, CA 93942 |
| Sherwood Darington | Monterey County Agricultural Land Conservancy P.O. Box 1731 Salinas, CA 93902 |
| Marc Del Piero | Monterey County Agricultural Land Conservancy P.O. Box 1731 Salinas, CA 93902 |
| Kevin Stone | Monterey County Association of Realtors 201 A Calle Del Oaks Place Del Rey Oaks, CA 93940 |
| Patrick Treffry | Monterey County Health Department 1270 Natividad Road Salinas, CA 93906 |
| Sam Teel | Monterey County Hospitality Association P.O. Box 223542 Carmel, CA 93922 |
| Bob Schubert | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Robert Murdoch | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Mike Novo | Monterey County Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901 |
| Andrew Leavitt | Monterey Marriott 350 Calle Principal Monterey, CA 93940 |
| Jody Hanson | Monterey Peninsula Chamber of Commerce 30 Ragsdale Drive Suite 200 Monterey, CA 93940 |
| Paul Bruno | Monterey Peninsula Engineering P.O. Box 2317 Monterey, CA 93942 |
| Tim Jensen | Monterey Peninsula Regional Park District |

| Name | Mailing Address |
|-------------------|---|
| | 60 Garden Court #325 Monterey, CA 93940 |
| Andrea Baltzinger | Monterey Plaza Hotel & Spa 400 Cannery Row Monterey, CA 93940 |
| John Narigi | Monterey Plaza Hotel & Spa 400 Cannery Row Monterey, CA 93940 |
| Barton Lounsbury | Rossmann and Moore, LLP 2014 Shattuck Avenue Berkeley, CA 94704 |
| Molly Erickson | Stamp Ericson Law Offices 479 Pacific Street, Suite 1 Monterey, CA 93940 |
| J. Alan Fagan | The Mattox Group P.O. Box 987 Marina, CA 93933 |
| Harvey Billig | Casanova Street 25 SE 13th Avenue Carmel, CA 93921 |
| Patti Bradshaw | 3107 Flower Circle Marina, CA 93933 |
| Liz Billingsley | 401 Sunset Place Marina, CA 93933 |
| Harvey Biala | 3012 Crescent Street Marina, CA 93933 |
| Larry Parish | 27420 Schulte Rd Carmel, CA 93923 |
| Chandler Roland | 179 Palm Avenue Marina, CA 93933 |
| Ian Oglesby | 440 Harcourt Avenue Seaside, CA 93955 |
| Rick Heher | Monterey Peninsula Taxpayers Association P.O. Box 157 Monterey, CA 93942 |
| Susan Jordan | California Coastal Protection Network 906 Garden Street Santa Barbara, CA 93101 |
| Heather Hubanks | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |
| Alan Cohen | Pacific Grove City Council 300 Forest Ave Pacific Grove, CA 93950 |

| Name | Mailing Address |
|--|---|
| Mary Ann Lefel | Monterey County Business Council P.O. Box 2746 Monterey, CA 93942 |
| Michelle Knight | Adventures by the Sea 299 Cannery Row Monterey, CA 93940 |
| Brent Reitz | Pebble Beach Company 1700 17-Mile Drive Pebble Beach, CA 93953 |
| Andrew Leavitt | 253 Bennett Court Marina, CA 93933 |
| Herbert Lusk | Bethel Missionary Babtist Church 390 Elm Avenue Seaside, CA 93955 |
| Carlos Ramos | Monterey/Santa Cruz Building and Construction Trades Council 10300 Merritt St. Castroville, CA 95012 |
| Ron Chesshire | Monterey/Santa Cruz Building and Construction Trades Council 10300 Merritt St. Castroville, CA 95012 |
| Stefanie Sekich-Quinn | Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102 |
| Barbara Meister | Monterey Bay Aquarium 886 Cannery Row Monterey, CA 93940 |
| Kathy Jensen | Rutan & Tucker LLP 611 Anton Boulevard, Suite 1400 Costa Mesa, CA 92626 |
| William Monning California State Senate | 99 Pacific Street, Suite 575-F Monterey, CA 93940 |
| Mark Stone California State Assembly | 99 Pacific Street #5550 Monterey, CA 93940 |
| William Bourcier, Ph.D. | 8586 Tesla Road Livermore, CA 94550 |
| Tom McMahon | Pacific Grove Downtown Business Improvement District 300 Forest Ave. Pacific Grove, CA 93950 |
| Peter Mounteer | Pacific Grove Chamber of Commerce P.O. Box 167 Pacific Grove, CA 93950 |

| Name | Mailing Address |
|--|---|
| Rene Poskoff | Coalition of Peninsula Businesses and Monterey County Hospitality Association |
| Jody Hansen | Coalition of Peninsula Businesses and Monterey County Hospitality Association |
| Seaside Basin Watermaster | 260 Garden Rd. Suite 228 Monterey, CA 93940 |
| Monterey Abalone Company | 160 Wharf #2 Monterey, CA 93940 |
| People's Moss Landing Desalination Project | 16 W. Gabilan St. Salinas, CA 93901 |
| Spragg and Associates | 420 Highland Ave. Manhattan Beach, CA 90266 |
| Andrew Bell | 3079 Hermitage Rd. Pebble Beach, CA 93953 |
| Michael Cate | PO Box 178 Carmel, CA 93921 |
| Stephen Collins | 26153 Legends Ct. Corral de Tierra, CA 93908 |
| Jean Donnelly | 759 Jewell Ave. Pacific Grove, CA 93950 |
| Christina Holston | 414 Granite St. Pacific Grove, CA 93950 |
| Steven Huish | 5459 Quail Meadows Dr. Carmel, CA 93923 |
| Safwat Malek | PO Box 1734 Pebble Beach, CA 93953 |
| Barbara Martin | 328 Neponset Rd. Salinas, CA 93908 |
| Darby Moss Worth | 8250 El Camino Estrada Carmel, CA 93923 |
| Virgil Piper | 3010 Eddy St. Marina, CA 93933 |
| Dan Presser | 6 Victoria Vale Monterey, CA 93940 |
| Lester Schwabe | 1407 Hoffman Ave. Monterey, CA 93940 |
| Frederick & Karin Schwoerke | 1160 Mono Ct. Seaside, CA 93955 |
| Doug Smith | Chapman Science Academic Center E207 6133 Fifth Avenue Seaside, CA 93955 |

| Name | Mailing Address |
|---|--|
| Martha Wright | 1744 Kenneth St. Seaside, CA 93955 |
| Christine Kemp | Noland, Hamerly, Etienne & Hoss P.O. Box 2510 Salinas, CA 93902 |
| Martin Feeney | mfeeney@ix.netcom.com |
| Joe Geever | jgeever@surfrider.com |
| Sarah Damron | sdamron@surfrider.com |
| Charles Cech | chuck_cech@hotmail.com |
| Larry Parrish | lparrish@toast.net |
| Paula Pelot | pfpelot@sbcglobal.net |
| Nancy Selfridge | self48@icloud.com |
| Lorraine O'Shea | loshea@csumb.net |
| James Toy | ToylandMRY@aol.com |
| Lindy Marrington | lindymarrington@sbcglobal.net |
| Maria Iskiw | marusia@sbcglobal.net |
| Kevin Kelly | kevinkelly831@yahoo.com |
| Francis Duda | frduda@gmail.com |
| William Genova | phatboy1950@yahoo.com |
| Dale Hekhuis | Dale93921@yahoo.com |
| Diann Cupples | dianncupples@sbcglobal.net |
| Robert Danzinger | bobdanzinger@mac.com |
| Luke Coletti | ljc@groknnet.net |
| Rondelle Cagwin | cagwinronnie@gmail.com |
| Sustainable Energy and Development on Vessel (SEADOV) (Thomas Dinkel) | thomasdinkel@icloud.com |
| Peter Adler | Peter@drpeteradler.com |
| Anthony Jones | info@intakeworks.com |
| Dan Turner | Drdan1221@comcast.net |
| Susan Schiavone | s.schiavone@sbcglobal.net |
| Nan | Resident of Marina Address Unknown |
| Karen Arajo | Resident of Salinas Address Unknown |
| Anna Camta | Address Unknown |
| Andrew Letter | Resident of Marina Address Unknown |
| Maja Soyar | Resident of Marina Address Unknown |
| Tina Walsh | Resident of Marina Address Unknown |
| Arthur Deala | Resident of Marina Address Unknown |

| Name | Mailing Address |
|---------------------------|--|
| Teresa Pola | Resident of East Garrison Address Unknown |
| Michael Kennedy | Resident of Marina Address Unknown |
| Yul Vedospek | Resident of Marina Address Unknown |
| Darin [Last Name Unknown] | Address Unknown |
| Leah Spevissa | Resident of Marina Address Unknown |
| Helen Chambers | Resident of East Garrison Address Unknown |
| Stephanie Corseno | Resident of Marina Address Unknown |

Castroville Community Services District Coastal Appeal

ATTACHMENT B

Castroville Community Services District (“CCSD”) appeals the City of Marina Planning Commission’s denial of California-American Water Company’s (“Cal-Am”) application for a Coastal Development Permit (“CDP”) for the components of Cal-Am's Monterey Peninsula Water Supply Project (“Project”) that would be sited within the City's coastal zone.

CCSD properly files this appeal as an aggrieved person under the Coastal Act, its implementing regulations, and the Marina Local Coastal Program (“LCP”). CCSD participated in the City of Marina Planning Commission's February 14, 2019 hearing on the CDP, providing oral testimony in support of the Project and issuance of the CDP.

On March 7, 2019, the Planning Commission adopted Resolution 2019-06, denying Cal-Am’s CDP application (CDP 2018-01) and making findings that the Project is inconsistent with the City’s certified LCP and the Coastal Act. On May 10, 2019, the City of Marina issued a Final Local Action Notice (“FLAN”) for the Project, beginning a 10 working-day appeal period, ending at 5 p.m. on May 28, 2019.

The City of Marina charges a local appeal fee for an appeal of a Planning Commission denial to the City Council (see Resolution No. 2018-51), and CCSD did not file such an appeal. However, because the City charges a local appeal fee to appeal a Planning Commission denial to the City Council, CCSD may appeal the denial directly to the Coastal Commission once the City has filed its Final Local Action Notice with the Commission. (Coastal Act Regulations § 13573(a)(4).)

The Project will provide much needed water to Castroville and the Monterey Peninsula, which have been facing, and will continue to face, severe water supply constraints. CCSD currently pumps groundwater from aquifers, directly in the path of saltwater intrusion, from the Salinas Valley Groundwater Basin. By agreement between CCSD and Cal-Am, groundwater currently being pumped by the CCSD from wells directly in the path of the seawater intrusion, would be replaced by desalinated water from the Project. Thus, Cal-Am's Project would provide much needed recharge benefits to the Salinas Valley Groundwater Basin while helping to slow further contamination of the 400’ aquifer in and around Marina and Castroville.

Until recently Marina and the Marina Coast Water District both supported the wells at the coast until the Regional Desal project failed. Any claim of harm of Marina’s water supply by Marina has been refuted by hydrogeologic experts. In the twenty-five years of trying to come up with a solution, the Monterey Peninsula Water Supply Project is the only project that is a long-term, drought proof water supply for not only Castroville and the Peninsula, also potentially Marina.

The Project is a major public works project. The Coastal Act allows an action taken by a local government, with a certified LCP, on a CDP application for a major public works project, to be appealed to the Coastal Commission (Public Resources Code, § 30603(a)(5)), including an appeal of a local denial of a CDP application for a major public works project. (Public Resources Code, § 30603(b)(2).)

For the reasons set forth in the record before the City of Marina, the Project's proposed development in Marina's Coastal Zone conforms to the standards set forth in the City of Marina's certified LCP and the public access policies of the Coastal Act. (Public Resources Code, § 30603(b)(2).) Accordingly, the Marina Planning Commission's denial of the CDP application is appealable to the Coastal Commission.

Castroville CSD urges your Commission to grant both CCSD's appeal and CalAm's appeal and issue the CDP for the Project.