



State Water Resources Control Board

MAY 17 2018

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MPWMD

Mr. David Stoldt, General Manager
Monterey Peninsula Water Management District
5 Harris Court, Bldg. G
P.O. Box 85
Monterey, CA 93940

Dear Mr. Stoldt:

On March 19, 2018, the Monterey Peninsula Water Management District adopted Resolution 2018-05, purporting to interpret a term in a 2009 State Water Resources Control Board (State Water Board) Cease and Desist Order (CDO) regarding unlawful diversions from the Carmel River - State Water Board Order WR 2009-0060, Condition 2. The District undertook this action without notifying the State Water Board, and against our request for postponement, which we made after receiving the proposed resolution from a third party during the weekend prior to the District's Monday adoption meeting.

Condition 2 prohibits diversion of Carmel River water for "new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use" (emphasis added). Resolution 2018-05's interpretation of the italicized language improperly eliminates the Condition's specification of service addresses as the proper unit of measure for increases in use by adopting a "credit/debit/entitlement" system for calculating compliance across different service addresses. Additionally, the resolution's action in purporting to establish the baseline for analysis of a service address's usage as a generalized fixture unit or water use factors method, rather than looking at actual water use, is a strained reading of a requirement that targets increased use at existing service addresses.

As we reminded you prior to adoption, the resolution's interpretation is directly contrary to the State Water Board's formal interpretive letters issued on April 9, 2012 and May 31, 2013.

As you are aware, there have been stalled conversations regarding potential changes to the interpretation of Condition 2. In these conversations, District staff put forth proposals for both a credit/debit/entitlement system and a "capacity for use" baseline, and State Water Board staff indicated that the language and intent of Condition 2 did not permit such an interpretation. The formal interpretation letters of April 9, 2012 and May 31, 2013 specifically reject these interpretations.

Because the resolution would permit distribution of water in a manner contrary to State Water Board Order WR 2009-0060, the resolution creates a substantial threat of violation of the CDO.

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Monterey Peninsula Water
Management District

Investigation and prosecution of Condition 2 violations have the potential to distract energy from implementation of a new water supplier on the Peninsula. Staff is surprised and disappointed by this unilateral action. If you would like to meet to discuss a path forward in light of this conflict, please contact Jule Rizzardo at (916) 341-5368 or Jule.Rizzardo@waterboards.ca.gov.

Sincerely,



Erik Ekdahl
Deputy Director
Division of Water Rights