

EXHIBIT 2-A

Dave Stoldt

From: Westhoff, Steven@Waterboards <Steven.Westhoff@waterboards.ca.gov>
Sent: Wednesday, March 4, 2020 5:08 PM
To: Arlene Tavani; Stephanie Locke; Dave Stoldt
Cc: dave@laredolaw.net; uslar@monterey.org; donlon@monterey.org; davi@monterey.org; cole@monterey.org; flower@monterey.org; Christopher Cook; Kathryn Horning; Ekdahl, Erik@Waterboards; Rizzardo, Jule@Waterboards; Cervantes, Roberto@Waterboards
Subject: Water Demand Committee - Action Item 2

Ms. Tavani, Ms. Locke, and Mr. Stoldt:

The Monterey Peninsula Water Management District (District) Water Demand Committee's posted agenda for March 5 (<https://www.mpwmd.net/wp-content/uploads/March-5-2020-WDC-Agenda.pdf>) indicates that the City of Monterey has requested an additional water allocation from the District for 2000 and 2600 Garden Road in the City of Monterey. Based on the description from City Manager Hans Uslar's February 18 letter, both projects appear to be for residential developments (affordable apartments) at current non-residential service addresses (gym and office). Mr. Uslar's letter suggests that these projects would require "additional water allocation," and Mr. Uslar has requested that the District allocate a portion of the 9 acre-feet per year that the District reserved under District Ordinance No. 168.

As both the District and the City of Monterey are aware, condition 2 of State Water Board Order WR 2009-0060 (Condition 2) prohibits California American Water Company (Cal-Am) from serving new service connections and also prohibits "increased use of water at existing service addresses resulting from a change in zoning or use." Changing the service addresses, or parcels or sites in District terminology, from current non-residential uses to residential uses would constitute a change in use under Condition 2. Condition 2 would therefore prohibit increased use of water at the service addresses. As with other projects or credits not specified in State Water Board orders, neither Ordinance No. 168's Local Water Project-related entitlement for the City of Pacific Grove nor the District reserve is exempt from Condition 2. Under Condition 2, increased use of water at the service address could not be avoided, cured, or offset with such an entitlement or reserve. Permitting and serving the proposed projects as described in Mr. Uslar's letter could therefore lead to a violations of Condition 2, even if they would be allowed under the District's local water permitting system.

Condition 2 and other limiting conditions of the State Water Board's cease and desist order will be in effect until Cal-Am terminates unauthorized diversions from Carmel River and implements an alternative water source to meet existing and reportedly growing demands. Please feel free to contact me if you have additional questions.

Sincerely,

Steven Westhoff

Attorney, Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814-2828

Email: Steven.Westhoff@waterboards.ca.gov
Phone: (916) 327-7295
Fax: (916) 341-5199