

**EXHIBIT 2-A**



April 24, 2020

Thaddeus Hunt  
PO Box 2000  
Sacramento, CA 95812-2000

**Subject: Response to State Water Resource Control Board Letter Regarding the Petition for Time Extension for Water Right 20808B (Application A027614B) to Appropriate Water from the Carmel River and Subterranean Flow of the Carmel River in Monterey County**

Dear: Mr. Hunt

Thank you for your letter regarding the suite of 20808 Water Rights held by the District. Your letter provides a history of the 20808 Water Right(s) and describes the process in which the Water Right was split into 3 separate Water Rights. Your summary is consistent with District's understanding of the Water Rights history. Your letter asks two specific questions regarding Water Right 20808 B and outlines a few important dates related to Water Rights 20808 A and C.

Your questions regarding the 20808 B Right focus on the District's plan to continue to move forward with its current Petition for Extension of Time to construct the New Los Padres Dam and to show diversions for beneficial use. The window of time to complete construction and show beneficial use ends December 1, 2020. This deadline will not be met. State Water Resources Control Board (SWRCB) staff asks the District two questions: 1) whether the District would like to keep the petition for extension of time to construct the Dam, and 2) if the District is considering filing a petition for extension of time to demonstrate diversions to beneficial use under this permit.

Related to the 20808 A and C Water Rights, SWRCB staff reminds the District that on December 1, 2020 the period to demonstrate beneficial use of water diverted under these permits expires. At that point, even if the face value of the Water Rights is larger than the maximum volume diverted in a calendar year, the Water Rights are capped at the maximum demonstrated volume. In addition, these Water Rights have a maximum rate of diversion which would also be capped at the demonstrated rate. The District has demonstrated maximum instantaneous diversion rates for each of these Water Rights, but has not yet demonstrated the maximum annual face value of the Rights. Face values for 20808 A and 20808 C are 2,476 and 2,900 acre-feet per calendar year, respectively.

In response to your letter, on 3/24/20 District staff and SWRCB staff had a conference call to chart a path forward for the Water Rights. SWRCB staff explained when the period to demonstrate beneficial use for a water right comes to a close, the water right holder has three choices; 1) keep diverting water under the right capped at the maximum calendar year diversion of record, 2) file a petition for an extension of time to demonstrate maximum beneficial use, or 3) file to license the water right. When a water right is licensed, a finding is made as to the maximum diversion rate and the maximum annual diversion volume. The findings often do not set the rate and volume of the right above what has been demonstrated, however the District can work with SWRCB Staff to provide information and analysis that may allow the State Board to make a finding that would set the Water Right at an annual volume larger than the largest volume diverted in the last 10 years.

## EXHIBIT 2-A

Mr. Thaddeus Hunt

Page 2 of 2

April 24, 2020

Regarding the 20808 B Water Right, it is understood that the New Los Padres Dam is no longer a feasible water supply option and will not be constructed. Therefore the District is currently undertaking an alternatives analysis to identify projects that would be able to make use of this Water Right if a Petition for Change of Use were to be filed. District and SWRCB Staff discussed that a change of use would be more likely to be approved by the State Board if it included a reduction in the Right and did not have a negative effect on downstream water rights holders. MPWMD staff recapped that all the alternatives being considered would not be able to use all of the face value of the Water Right. Further, 20808 B is a junior Water Right so use of the Right is not allowed to negatively affect more senior Water Rights holders.

Regarding licensing the 20808 A and C Water Rights, it was discussed that they are subject to in-stream flow requirements that must be met prior to diverting water and therefore the annual volume is controlled by storm patterns and the response of the Carmel River. The District has daily streamflow records dating back to the 1950's that can be used to demonstrate the maximum number of days in a calendar year that would allow diversion under these water rights. This analysis coupled with plans to improve and expand the Carmel Valley well field as outlined in testimony in the California American Water 2021, 2022, and 2023 General Rate Case which is currently before the Public Utility Commission (CPUC) could be the base to make a finding for larger than demonstrated annual volume. However, this analysis and finding would need to be evaluated by SWRCB Staff at the time of licensing the Water Rights.

Following our conference call, District Staff met internally with District Counsel in order to understand the relationship between the Water Rights and Water Code Sections 844 and 1700 before developing a recommendation for moving forward with a Petition for Extension of Time and Licensing. On April 6<sup>th</sup>, the MPWMD Water Supply Committee considered this item and recommended the item be considered by the full Board. MPWMD Board considered this item on April 20<sup>th</sup> and provided the following direction:

- For 20808 B, MPWMD Board directed District Staff to file a Petition for Extension of Time to show beneficial use and withdraw the Petition for Extension of Time to construct New Los Padres Dam. Once the District has completed a feasibility analysis and identified viable project(s), file a Petition for Change to modify the water right to apply to the new application(s).
- For 20808 A and C, MPWMD Board directed District Staff to initiate the licensing process and provide an analysis that could allow SWRCB Staff to make a finding for more water than the highest annual volume based on a streamflow analysis and CPUC testimony. At the time that the draft license volumes are available, bring them to the Board for further direction.

Thank you again for bringing these items to the District's attention. Now that I have received direction from my Board, I will have my staff work with SWRCB staff to begin these processes. Thank you for your attention and advice regarding these matters, these Water Rights are an important component of this region's future water supply portfolio. If you have questions, please contact Jonathan Lear at 831-658-5647 or [jlear@mpwmd.net](mailto:jlear@mpwmd.net).

Sincerely,



David Stoldt  
General Manager

Monterey Peninsula Water Management District